LEGISLATIVE COUNCIL

Thursday, 27 October 1994

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The Chairman of Committees (The Hon. Duncan John Gay) took the chair as Deputy-President at 10.30 a.m.

The Deputy-President offered the Prayers.

STOCK DISEASES (AMENDMENT) BILL

Bill read a third time.

ELECTRICITY TRANSMISSION AUTHORITY BILL

Bill read a third time.

PETITIONS

Marijuana Prohibition

Petitions praying that legislation be enacted to give effect to the Law Society's recommendations on reform of marijuana prohibition laws relating to the use, possession and cultivation of marijuana for personal use, received from the **Hon. R. S. L. Jones** and the **Hon. Ann Symonds**.

Forest Protection

Petition praying for an immediate and permanent moratorium on the logging of all native old growth and wilderness forests, and for legislation to change present forest management practices, received from the **Hon R. S. L. Jones**.

INTELLECTUAL DISABILITY SERVICES

Matter of Public Interest

The Hon. R. D. DYER [10.39]: I move:

That the following important matter of public interest should be discussed forthwith:

Supported accommodation and other services for people with intellectual disabilities.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [10.39]: The Government has no objection to this motion.

Motion agreed to.

The Hon. R. D. DYER [10.40]: I thank the Government for facilitating debate on this matter of public interest. Could I say at the outset that this is a matter of major public interest and concern. There have been a series of large, well-attended and voluble community meetings on this very topic over the past few months, all of which I have attended on behalf of the Opposition. Those meetings have been held to date at Dee Why, Gosford, Castle Hill, St Ives and Wollongong, and next week there will be a similar meeting at Mascot. None of those meetings have been attended by the Minister for Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing, although at some of those meetings he has been represented by Government members.

As I have said, those meetings have been very large and voluble. By voluble I mean that a high degree of anger and emotion has been expressed. The subject of discussion is the sheer desperation that many ageing parents of people with intellectual disability are feeling. As decades have gone by, they have had no help whatsoever from the Government in caring for their children. They have saved the Government huge amounts of public funding by looking after their children, but they are reaching a stage in their lives when they can no longer cope. I met such a couple, a husband and wife, in the Illawarra last year. Those people, who are in their eighties, have two sons with intellectual disabilities, both in their fifties. The parents told me, as have many people in similar circumstances, that they are literally afraid to die because they do not know what will happen to their children.

The dimensions of this problem are very serious and very large. The Council for Intellectual Disability - CID - took a survey recently of the need that does exist. That survey revealed that more than a thousand families in the State need alternative accommodation for their sons and daughters now. For 585 families that need was regarded as being critical. The result of that survey was released recently by the New South Wales Council for Intellectual Disability. The Minister's response was to damn the survey on the basis that it was anecdotal. He alleged that the survey lacked credibility for that reason. Far from being anecdotal, the report on the survey was compiled by the CID from figures provided by the staff of the Department of Community Services. The CID believes that, if anything, the figures are understated. I might add that not only was there staff cooperation, but I understand there was written approval from management at the department's central office before the survey was carried out.

To illustrate at a micro level, as distinct from a macro level, the need that undoubtedly does exist, recently - in fact only about three weeks ago - one single vacancy became available for a community group home in the Illawarra region. There were no less than 300 expressions of interest for that single vacancy; 95 definite applications were made; the department culled that figure down to the 10 most desperate cases; and then the department had to select, presumably with the wisdom of Solomon, one family that could avail itself of that single vacancy. The department finds the situation so embarrassing that years ago it stopped keeping waiting lists.

The Minister, when responding regarding the Government's record, refers to the number of group homes that have been created or brought on stream since the Government assumed office. The extraordinary thing is that the Council for Intellectual Disability has received from the Minister three letters, all of which lay claim to different numbers of group homes having been brought on stream by this Government. The essential point I make regarding any group homes which the Government has brought into place since it came to office is that, by and large, those groups home have replaced large congregate institutions. For example, when the Riverglade Centre closed, group homes were opened and clients were relocated to them. Essentially, what I am talking about is the need to address the urgent and critical requirement of desperate families that have been keeping their children at home for decades.

I am not talking about replacing places in large institutions; I am talking about quite ordinary individuals who have come along to those meetings venting anger and frustration that no help has been

or will be given to them. At the recent estimates committee proceedings I questioned the Minister, the Hon. Jim Longley, regarding the failure of the Government in the past two financial years to allocate even one dollar of capital funding in the capital works program of the Government to the creation of even one new group home anywhere in the State. The Minister said in response to that questioning that last financial year, 1993-94, an extra three group homes had been established and that an additional three respite cottages are planned in the near future. The Minister went on to say that two of the three homes that were established last financial year were provided by the Department of Housing and one was provided by a concerned family which actually donated the funds to a non-government organisation. That is the sum total of group homes that were brought on stream last financial year. The Minister went on to say to me:

> As you can see, there is no real need to have a specific capital allocation to establish new accommodation services. That is why the Opposition's line of attack on this question is really quite misguided. There is not the need to do that because the Department of Housing has an appropriate role in that area.

I do not deny that the Department of Housing has an appropriate role. I do not attack the fact that it provided two such homes last financial year. But I do attack the Department of Community Services, which has primary responsibility in this area, for not itself bringing on stream any new group homes, particularly in the past two financial years. I find it even more extraordinary that when I questioned the Minister regarding another aspect - the non-use of $50 million of capital funding - the Minister conceded that that sum existed, that it had been available since 1989 and had not been used.

The circumstances regarding that large lump sum of $50 million are that in 1989 responsibility for developmental disability services was transferred from the Department of Health to the Department of Family and Community Services, as it then was, now the Department of Community Services. Enhancements were promised as part of that transfer process. Originally, capital funding of $60 million was promised, $10 million of which was subsequently spent and $50 million of which remained unspent. The Minister, in responding to my question, said that it was agreed that a one-off payment will be made but that those funds were to be kept by the Treasury - where the funds presumably still are - and used to facilitate the relocation of disability services from Health-owned sites into the community. The Minister went on to tell me that:

> . . . the $50 million has not been lost to the department; it is available and will be used to facilitate, as it was intended, the transition of departmental services under the Disability Services Act.

That last statement of the Minister is simply not true. In 1989 the Disability Services Act was not even thought of. It was enacted last year. The Commonwealth and the States did not even enter into the Commonwealth-State disability agreement until July 1991. The $50 million had nothing to do with the transition under the Disability Services Act. It had everything to do with the deal that was done in 1989, when responsibility for developmental disability services was transferred from the Department of Health to the Department of Community Services. I must say I resent the Minister misleading me in that way by giving that answer. It is a partially correct answer, but it is a misleading answer as well because it is clearly not true, as the Minister claimed, that the funds were intended to assist the transition under the Disability Services Act, a statute which was not even thought of in 1989.

In any event, leaving those considerations aside - and I repeat that I resent the Minister being so careless with the truth in giving that answer - it is important that the funds should now be used. The Minister did not give the estimates committee the benefit of any explanation as to why the $50 million had not been used for its intended purpose. I assume the reason the funds have not been used is quite simply that the Government has not been prepared, following an allocation of capital funding to purchase group homes, to provide for the recurrent cost of staffing the group homes when established. If that is the case, the Government has failed in its duty to people with intellectual disabilities and to their families because those people, as I have said, are truly desperate. They are in great need of the assistance that

the Government and the department can give to them.

I want to give one clear example of what I am talking about. It is all very well to talk about statistics, the need that exists, and the funding that might be available but has not been spent. But I just want to read onto the record a letter from a parent who can be identified by the CID but is not identified in this letter. This is one of a number of letters made available to the Premier. It read:

> Dear Mr Fahey, I am a single foster parent of a 21 year old blind severely mentally disabled young man. He is non verbal and needs one to one care, he is totally

> dependent, also has a very bad sleep pattern and has self injurious behaviour. T was fostered out at 3½ years old, previous to that I worked in the home where he was situated and took him home from 9 mths old. Knowing the cost of what it takes to house disabled persons in institutions, I believe the Government have saved a small fortune on this one person whom I love very dearly and yet in 1991 I was forced to give up work with a good salary and go on a measly "carer's pension" because there was nothing that T could be involved in as an on going daily consistent care or training because of Government cut backs on workshop and activities centres, centre based activities were out so people like T were forced to stay at home.
>
> The continuous stress that affects families is almost unbearable and when you have a young adult that has a very bad sleep pattern at times it is unbearable. Surely the Government should make sure that there is enough respite cottages that can take these clients to give families the break they deserve!!
>
> Also in my approach to DOCS I found that the Government are not going to open any more group homes, this concerns me greatly, I am now 61 and have no one in my family that could look after my foster son if anything happened to me and this is very stressful as I have heard many older parents state they do not know what will happen to their child if anything happens to them, to be quite honest this is the greatest fear of any parent who has a disabled person. Is it too much to ask that their future should have a light at the end of the tunnel?
>
> I feel that if people in government had one disabled person in their home for one week and had to care for that person their attitude would change and they should realise just how great the need is for more community based respite and more suitable Group homes that do not have a list as long as a life span. Signed, A Parent.

That encapsulates the concern and desperation expressed at the large and angry meetings that I have attended. I plead with the Government to get its act together and to use the $50 million of recurrent funding that has been available since 1989 to staff group homes.

The Hon. E. P. PICKERING (Minister for Energy, and Minister for Local Government and Co-operatives) [10.53]: It is unfortunate that the Opposition continues to politicise this issue, which is critical to so many families in New South Wales. There has been a significant improvement in the quality of care and accommodation for people in New South Wales with an intellectual disability. This Government has demonstrated its commitment to treat each case individually. Policies are aimed at providing services that assist people with disabilities to live in our community in the least restricted way. This Government is determined to resist the calls of the Opposition to lump people with disabilities into one large group and institutionalise them. Each person has a different support need and this is reflected in the facilities provided since 1988. As I have already said, this is an issue affecting entire families. We should not forget that this is the International Year of the Family and that family support services, like respite care, post-school options, information and support through government programs, are vital. The Department of Community Services aims to keep families together.

The Hon. Ann Symonds: Is that your response?

The Hon. E. P. PICKERING: That is the response.

The Hon. ANN SYMONDS [10.55]: I cannot believe that is the entire response of the Government to an issue that is of such vital concern to so many people in the community. The pious and sanctimonious way in which Pickering, the Minister, accused us of politicising is appalling.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The honourable member will refer to the Minister as the honourable.

The Hon. ANN SYMONDS: The pious, sanctimonious response of the Hon. E. P. Pickering is offensive under any terminology. I must say that I am taken aback by the paucity of the response. Nevertheless, the Opposition persists with an intense plea to the Government to do something about this serious issue. I would like to commence by once again congratulating my colleague the Hon. R. D. Dyer for bringing this matter to the attention of the House. There is a need to acknowledge publicly that he is one of the few people that I am aware of in the long history of the Department of Youth and Community Services, the Department of Family and Community Services and the Department of Community Services, it having had a number of name changes, who has actually endeavoured to understand the range and complexity of the problems for which the department has responsibility. It is an incredibly complex area of government responsibility and the Hon. R. D. Dyer has demonstrated once again that he has a greater understanding of the department and its functions than either the present Minister has or the previous Ministers had.

I am aware of the history of institutional care for people with mild and moderate intellectual disabilities, whereby it was customary until the middle of this century that these people were cared for by the State in large institutions. This was an accepted response by families, communities and governments. Gradually over the years it became apparent that this was not the most humane way to deal with people with a disability and there was an increasing need to plan for these people to have every right to live in the community as members of the community. A movement to take people out of institutions then began in earnest, and I think it actually started to have some impact in the 1970s. I was well aware of it in my role as Deputy Mayor of the Municipality of Waverley in the 1970s, when a local group approached me and we attempted to establish a group home within the Waverley area, using an unoccupied property of the municipality. Unfortunately, that was not a successful venture because of the lack of integrated support, supervision and care that is required to successfully support and maintain people in a community setting.

It is a key element of the issue that people who were lobbying to change the mode of care of people with such disabilities believed that, as the State accepted that community care was a better and more humane option, and as the State was no longer required to fund whole-of-life institutional placements for their sons and daughters, funds would be directed increasingly towards the provision of community-based services and community-based supported

accommodation when their sons and daughters reached adulthood. This has not happened. All honourable members would be aware of the costs of keeping people in institutions. Some people, such as children and prisoners, spend long periods in institutions.

There is an urgent need for recognition of the fact that if the Government is no longer prepared to fund institutional care to a particular level it must be prepared to transfer those funds into the broad range of community services that it has acknowledged are required to support people in dignity in the community. I congratulate the New South Wales Council for Intellectual Disability on the way it has campaigned and the valuable material it has produced. However, the waiting list for supported accommodation for people with intellectual disability has doubled in the past six years. All honourable members know about the restructure, the Commonwealth-State agreements, and the transfer of responsibility from one department to another, but they also know that $50 million is sitting in the

Treasury fund earmarked to provide services and programs for this category of people, and it is not being moved.

I do not know how the Government and Minister Longley can justify taking such a position. I can only conclude that what the Hon. R. D. Dyer said is correct - that they are reluctant to commit themselves to the recurrent funds that would be required to accompany the disbursement of those moneys. The Opposition is not alone in asking the Government to proceed with this matter, and is certainly not attempting to politicise it. It is pleading with the Government to support the wishes of the community at large and to act in the interests of this group. The Anglican Church Diocese of Sydney, the Uniting Church in Australia and the Australian Catholic Social Welfare Commission have commented on this need. A letter from the Uniting Church stated in relation to the report produced by the Council for Intellectual Disability:

> This report reveals that there are 585 disabled people whose accommodation needs are critical. There must be an immediate start on providing suitable group homes and other accommodation.

I would add "and services". The Most Reverend Bishop Goodhew of the Anglican Church Diocese of Sydney stated:

> I am grieved to learn that in this *International Year of the Family* the strain of caring full-time for intellectually disabled persons often leads to marriage and family breakdown, illness, loss of income and reduced quality of life. That the lack of services greatly contributes to this appalling situation cannot be denied. It is paramount therefore that this crisis be addressed as a matter of urgency, by all sides and levels of Government, free of party political considerations.

That is the clear intention of the Opposition. A letter from the Australian Catholic Social Welfare Commission stated:

> The lack of adequate resources for the establishment and maintenance of accommodation services for people with an intellectual disability is a major concern to the Commission, particularly those people whose parents are no longer able to provide support from home due to frailty and old age.

Although the Government may claim to have responded to this issue the claim is inadequate. There are 170 people with intellectual disability living in respite accommodation. Adequate long-term, supported, affordable and properly supervised accommodation is required so that people in need have access to this service. Only in this way can they exist with dignity and their carers be assured that they are cared for in the most appropriate way. I ask the Minister, as he is taking Government responsibility today, to take up the matter seriously. [*Time expired*.]

The Hon. ELISABETH KIRKBY [11.05]: It is with pleasure that I support the motion moved by the shadow minister for community services, the Hon. R. D. Dyer. I am appalled at the suggestion of politicising. This matter of public importance would never have been raised if sensible answers had been provided to questions at the estimates committee. We were put off with words of obfuscation and direct evasion. It is also interesting that neither of the two Ministers in this Chamber who have a knowledge of this portfolio, the Attorney General and the Minister for Education, Training and Youth Affairs, are taking carriage of the matter. They have left that to the Minister for Energy, and Minister for Local Government and Co-operatives. But no matter what his abilities were as Minister for Police, which I greatly admired, he does not have the knowledge that they have in this matter. I believe that the two Ministers to whom I referred do not want to be questioned about it.

We were told that many reports have been tabled that were produced for previous Ministers going back to the early days of the coalition administration. In 1988 the Barclay report was released. That report resulted from an inquiry set up by the then Minister responsible, Peter Collins. The report stated that there were 19,646 people with high support needs in New South Wales and at that time there were

585 families on the waiting list. The Government provides services to only 3,000 - 2,000 in institutions and 1,000 in group homes. In 1990 a Treasury report to the Government stated that there were 760 people on the urgent waiting list. The 1994 report of the New South Wales Council for Intellectual Disability shows that 1,051 people are living with their families and are in urgent need, and 585 families are in a state of crisis.

The figures in this survey were provided by the staff of the Department of Community Services. They were supplied by the community support teams that carry the case loads. They are the people who have close contact with the families and they know the real story. The Council for Intellectual Disability believes that the figures are understated. Why? Because the department, presumably under instruction from the then Minister, officially stopped keeping figures some years ago. Within the past month, for a vacancy for one bed in a group home in the Illawarra, there were 300 expressions of interest, and 95 applications. Those applications had to be culled to 10 before a decision could be made. For the

Minister to describe the figures as dubious, as he has done in the news media, is outrageous. It is appalling that the Minister has not responded to the needs of parents who are caring for their children at home. I get many letters from distressed parents who have cared for their children at home for 25, 30 or 40 years. When they need respite care and seek some assistance, as one of my constituents did for her son Michael, they get from the Minister a letter similar to this one he sent to me, which is a copy of his reply to her of 24 October. The letter read:

> I am advised that Michael is a registered client with the Department of Community Services and that his caseworker, Ms Lyn Monahan, is continuing to work with you towards finding appropriate long term accommodation and support services for Michael.
>
> I have requested the Department of Community Services to develop a comprehensive three year forward plan for improved accommodation and community support services for people with disabilities and their families in all areas of the State. This plan, which will be completed later this year, is being developed . . .

This has been going on now for four years, and forward comprehensive plans are still being developed. What happens to the 585 families in crisis? Does the Minister ever consider them? He must know from their caseworkers what the crisis means. Yet, in this case to which I have referred, he did nothing except write what could only be described as an offensive letter to this woman who was struggling to look after her child at home. She does not want her child to go into an institution. None of us is talking about institutionalisation of these children; we are saying that the Government has available $50 million with which it could build the group homes necessary to accommodate some of the young people concerned. They should be in group homes, not institutions.

It is proved that at least 1,051 people with intellectual disability need accommodation now and that at least 1,649 people will need community-based support accommodation in the next five years. A survey has shown that 172 people live in respite accommodation on a permanent or semi-permanent basis, which means that respite accommodation is denied to those parents who are looking after their disabled children at home but can never get any relief from that burden. Along with the Hon. R. D. Dyer and, from time to time, the Hon. J. F. Ryan, I have attended public meetings that have been held around Sydney at which parents of these children explained their cases to the parliamentarians who attended. As the Hon. R. D. Dyer has pointed out, at not one of those meetings has the Minister been present. The shadow minister has been present, but not the Minister who bears the ultimate responsibility.

The stories we have been told by parents of disabled children are heart-rending. Honourable members might imagine the situation of the young man who told his story at a meeting in Baulkham Hills, a young man who, judging from his looks, would be only a little older than the Hon. J. F. Ryan. This man has two disabled sons of the age of 19, disabled to the extent that after 19 years that man was still changing their nappies. This is why parents need respite accommodation - it is not because they are

trying to shirk their responsibilities or trying to get rid of their children. From time to time they need help and assistance. With present medical treatment many disabled children are not dying at the age of eight, nine or 12 years, as they used to do; they are living into their thirties and forties and, naturally, their parents also are ageing. When their parents reach their seventies and eighties they simply cannot look after their children at home at longer; it is an impossibility.

The young people need somewhere to go. They need to go into accommodation that is homelike, because they have never been in an institution, but they need assistance and care because they cannot live independently. Does anybody believe that disabled people would want to live with constant care if they were able to live independently? Of course they would not. It is a disgrace that the undersupply of community-based support services has not been rectified by the Government. The resulting stress and suffering are hidden within the home, because very often individual families do not have the ability, the physical or emotional energy, to speak out. That is why we in this Parliament have to draw attention to this issue. To say that we are attempting to politicise the matter when we know what the needs are is disgraceful. If the Minister does not know what the needs are, he should speak severely to his senior staff and his advisers for not telling him about this. They are not doing their duty.

The Hon. HELEN SHAM-HO [11.15]: I am pleased to participate in this debate on supported accommodation and other services for people with intellectual disabilities. This is an important issue, and I agree with the Minister that it should not be politicised. Action speaks louder than words. A little while ago the Minister complained that Opposition members keep on criticising the Government when its track record shows that in the past six years it has done a great deal to improve the living standards of people with intellectual disabilities. Like the Hon. Ann Symonds, I worked in this area for many years in my professional life as a social worker.

When I first graduated in social work in the mid-1960s the intellectually disabled were absolutely ignored. Many were treated as second-class citizens and were discarded in institutions. They lived a very poor lifestyle because, sadly, they were not accorded the same rights as those of us who have no disability. In the late 1960s I visited Stockton Hospital at Newcastle. I saw people of old chronological age, people in their forties and fifties, who were in nappies and who had the mental age of two or three years. That was an appalling experience and I have never forgotten it. Things have changed since then.

I wholeheartedly agree that institutional care is not the answer for many people with intellectual disabilities. People with intellectual disabilities are human beings, the same as you and I. In the 1970s things started to change. From recollection, the

International Year of the Disabled in the early 1980s brought significant improvements. I live at Brush Road, Eastwood. Opposite my home was Brush Farm Park, a children's home. In the early 1980s the home next door to me was bought by the Department of Youth and Community Services as a group home. Six children with intellectual disabilities lived at that home. I remember being interviewed by members of a television crew, who asked me how I felt about having those people live next door to me.

I was living at 42 Brush Road at that time and they moved in to 44A. It was a very comfortable, double-storey home with a swimming pool. I was very pleased that the six children had moved in. The two children of my neighbours who lived on the battle-axe block, and my childen, befriended the children living in No. 44A. This was more than 10 years ago. Times have changed. Both the State and Federal governments have done quite a lot to assist in community services, but politics should be taken out of this issue. The home and community care program was started by the Commonwelath in 1986. I give credit to the Commonwealth for that initiative, funded by the Commonwealth through the State Department of Community Services. It was a joint effort. It is as a result of Commonwealth-State funding that the HACC program exists.

HACC is very important for those who do not have to go prematurely into institutions, for those who

can live at home independently but who need some carers. That is what we are talking about: the services provided to those who can live at home. Since 1986 the Commonwealth and the State have entered into numerous agreements, such as the Commonwealth-State disability agreement entered into this year. In March I was speaking on the Disability Services Bill, supporting both the Disability Services Bill and the Community Services (Complaints, Appeals and Monitoring) Bill. It is through these bills that Commonwealth funding will flow to implement services provided by our Government.

We had to push it through early because we needed the $6.8 million in transition funds under the CSDA. We were successful in achieving that, and I am pleased to have been able to participate in that process. In providing group homes, such as the Brush Farm Park children's home, the Government is implementing services under the principle of normalisation so that disabled children can live within the community and participate to their full potential. Last night, following the dinner break, I was walking through the fountain court foyer and I was very touched to see children from the Mount St Bernard School at Pymble performing their songs and drama.

The Hon. Franca Arena: They were beautiful.

The Hon. HELEN SHAM-HO: They are very able and they are beautiful. Reverend the Hon. F. J. Nile and the Hon. Elaine Nile were there, as well as the Hon. J. R. Johnson and the Hon. Franca Arena. Not many other honourable members were there. I thought that the integrated school policy was tremendous. There should be more of these schools. They apply the principle of normalisation. I was amazed by the performance of the five teenage boys and girls, their innovative ideas about holidays and visits and the improvisation of their activities. I was very impressed.

I should like to tell the House about my involvement with people who have disabilities. Disabilities occur in all ethnic groups. I am the adviser to the Chinese Parents Association Children with Disabilities, a group that started about four years ago. Every year I have participated in most of its activities and celebrations. One month ago I attended the celebration of the August Moon Festival. The group has a home at Marrickville. It was through the efforts of that group, supported by the Department of Community Services and the field worker, that 60 or 70 families have received help. Most of the families have young children. Some families have older children, and when I speak of "children" I should say adult children. It is an emerging problem in disabled communities. We have to address those problems. Given time, I believe the problems can be resolved, because the Government is diligent in addressing them. [*Time expired*.]

The Hon. JAN BURNSWOODS [11.25]: I congratulate the Hon. R. D. Dyer on raising this matter of public importance today. A few weeks ago I spoke on another matter that he raised. His record of concern for, and speaking about, the unmet community service needs of people is unparalleled. Time and again the Hon. R. D. Dyer has raised in this House, by question and by motion, the appalling record of Minister after Minister with the portfolio of community services. Though I congratulate him, I emphasise my anger and concern at the Government's record. The Government certainly cannot say that it is unaware of the needs; the Hon. R. D. Dyer has brought them time and time again to the attention of the Government, and so have bodies such as the Council for Intellectual Disability.

This motion deals specifically with the missing services, a phrase we have heard so often in this area. First, I shall say something about the unused $50 million. It is only the latest in a series of scandalous failures of this Government to develop decent programs to care for people with specific needs in our community. Even on the rare occasions when programs have been developed, the Government has a particularly bad history of underspending funding allocations. Previous recurrent budgets within the Department of Community Services have been underspent because the department or the Minister have not been sufficiently competent to manage to spend the money that has been allocated. This $50 million, which has been available since 1989 and is still lying around, stands as the most disgraceful of all of those failures.

Like other honourable members who have spoken in this debate, I would like to comment on the needs of people with intellectual disabilities. I have a neighbour who is intellectually disabled and I am very much aware of the lack of services to help him.
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Also, he is about to turn 40 next year, and I am very conscious of the incredible strain on his mother, who was widowed many years ago. Some of us, either through a friend, a family or a neighbour, have seen how difficult it is for a family to cope, with the absence of respite care and with the absence of opportunities to have a simple break. We have come to know the feeling that as parents get older and become less and less capable of providing the help and the support that they earlier provided without question, the search for a solution preys on their minds. They look around for solutions. There is stress in the family as siblings start to discuss exactly what provision will be made in the event that the parent cannot cope. It is a very sad and stressful situation for the family concerned. This situation is mirrored throughout New South Wales.

The Government is absolutely unable to deny that the problem exists. The Government seems unable to come up with a range of services, whether they be respite care or supported accommodation services, the adequate use of home and community care funding, services for which the Department of Community Services is responsible, or services that other departments, like the Department of Housing, can cover. The Government's record is appalling. I should like to refer to some of the comments the Minister made last week in the estimates committee, but before I do so I must say how disappointed I was at the Government's contribution to this debate. It was not the fault of the Minister for Energy, and Minister for Local Government and Co-operatives, the Hon. E. P. Pickering, that he had to fill in. I am sure the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, the Hon. Virginia Chadwick, had a reason not to be in this Chamber, although she represents the Minister. I hope she will speak later in the debate and comment on this most important issue.

If the Minister for Education, Training and Youth Affairs could not have been in the Chamber to give honourable members the benefit of her knowledge, surely it would not have been impossible for the Minister for Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing to have ensured that the Minister for Energy, and Minister for Local Government and Co-operatives was supplied with enough information to enable him to make a real contribution rather than the incredibly brief and insulting contribution that he made to the debate. The Hon. R. D. Dyer and the Labor Party have not raised the issue today for the fun of it but because it is an incredibly serious issue. It was raised, as it has been raised before, because it is time action was taken.

It is unforgivable of the Minister for Community Services not to brief the Minister who had to cope with the debate in this House, to enable him to say something that was worth listening to. I do not blame the Hon. E. P. Pickering for that, because he cannot be an expert on everything, although at times he tries to be; I blame the Minister for not providing him with the necessary assistance. I wish to comment on a couple of things the Minister for Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing said in the estimates committee in answer to a question from the Hon. R. D. Dyer about the missing $50 million. The Minister's answer can only be described as pathetic. In particular, after he admitted that the $50 million was available, he said:

> The Government recognises that there are a range of support needs for people with disabilities and these needs are being examined as part of the department's work in developing the three-year plan for accommodation and community support services for people with disabilities.

The Minister went on to say:

> It is important to recognise that this three-year plan is being developed and it is the Government's intention -

Neither honourable members nor community support groups in the community are impressed with the Minister saying that he is developing a three-year plan. Mr Longley has been Minister for a considerable time. The money has been available since 1989 - five years ago - but this pathetic Minister told the estimates committee last week that he is developing a three-year plan and that it is important to recognise that. As the Fahey Government drifts inexorably towards a massive defeat in March, and as Minister after Minister proves utterly incapable of coping with his portfolio, surely Mr Longley must be one of the most incapable Ministers and one of the worst. He tried to take credit for development of a three-year plan, which we have not seen but which he is currently developing - like the $50 million that has been available for five years. I am not surprised that the Hon. Virginia Chadwick was not in the Chamber earlier. I am sure she would have been most embarrassed trying to defend this pathetic Minister.

I have spoken previously in this House about services for the disabled and am pleased to contribute to the debate. I have become more aware of the problems since taking up the issues arising from the closure of the Riverglade section of Gladesville Hospital, which is near where I live. I heard the promises made to the people who had been in Riverglade, and I saw the tragedies that resulted from the Government's policy of providing group homes and other facilities as quickly as it did. People in the Riverglade facility were placed under stress as the Government was unable to provide services and accommodation in localities of their choice. The Riverglade site is still for sale. The Government's motives about Riverglade were far more concerned with the bonanza the sale of a riverfront site would provide than with looking after the people who lived there. [*Time expired*.]

The Hon. ELAINE NILE [11.35]: Call to Australia wholeheartedly supports the Hon. R. D. Dyer's motion that supported accommodation and other services for people with intellectual disabilities be discussed as a matter of public interest, but it does not wish to politicise the issue. The International Year of the Handicapped was celebrated in 1981, a year in which the Federal and State governments promised the world to handicapped

people. My leader, Reverend the Hon. F. J. Nile, through his work in the Festival of Light, brought to Australia Mother Teresa of Calcutta, who has a distinct and definite interest in handicapped people. At some of the open-air meetings at Parramatta and Doonside I remember seeing this gentle and caring woman down on her knees speaking to the physically and intellectually handicapped.

Governments can make and break promises, and that is the problem. Care and compassion may be evident during an international year, but gradually, like first love, the care and compassion that at one time was afire gradually wanes. Deaf choirs took part in programs during the International Year of the Handicapped. Everyone who participated was handicapped. I congratulate the Council for Intellectual Disability on this week's exhibition and display in which it offered excellent material that every member of this Parliament should read. The council is speaking out because the handicapped, especially the intellectually handicapped, are unable to speak for themselves. The original Richmond report recommendations on accommodation were rapidly implemented, and a large number of institutions were closed as part of the deinstitutionalisation program. Unfortunately, alternative accommodation and staffing were not first put in place.

Intellectually disabled persons were virtually thrown onto the streets. We have received many complaints from distraught family members and elderly parents who could not find where members of their family were. They were frightened, and it was a time of deep distress for many of them. The Government is trying to develop group homes, but there are not enough of them. The medication of many vulnerable persons living in run-down boarding houses is not being supervised. We took one young man out for a day. As he was returning late, we rang the man who ran the boarding house to inform him that the boy would not be home until late. He said, "I just want to know about the medication and whether he is coming back or not". We were deeply concerned about whether the man was authorised to give medication.

Of concern also is the lack of assistance for families caring for intellectually disabled children from

birth to 18 years and beyond. Where does the child go in adulthood when the parents become too old to provide care, have to enter a nursing home or die? My own family has had experience of coping with disability. Honourable members may remember that last week I spoke about my cousin Colin's beautiful 15-year-old daughter who became physically and intellectually disabled when she suffered an adverse reaction to a poliomyelitis vaccination. The family's distress and concern was so great that they did not go to court. For the next 29 years of her life the girl lived her life in a specially made cot. Her mother, Margaret, who was the only one to care for her daughter, fed her and changed her nappies. She had to be picked up.

As one honourable member said, all the needs of handicapped children have to be met by their parents. This child was in that category. Wherever she was her eyes followed her parents. Although family and friends were concerned for a short while, their care and concern soon dropped off and her parents were the only ones to look after her. She died a few months ago at the age of 29, nearing 30. I was disgusted to hear some people refer to Melinda not as a child or as a daughter but as "it". Melinda's parents devoted 30 years of their lives to their daughter. Now they are numb. The mother does not know what to do with her life. I noticed on a recent visit that she was agitated and wanted to talk all the time. She said, "I just do not know what to do now. My life is empty". After Melinda was cremated, her ashes were placed in the bedroom. The mother said to me, "Elaine, we get up every morning as we have done for the last 30 years. We go to the bedroom door and say, `Hello darling. How are you today?'"

The parents were left in a terrible situation. They did not get the counselling they needed. Their doctor said that Melinda lived for such a long time because her parents took such good care of her. As parents, naturally that is what they did. Another cousin of mine adopted a baby boy who also was rendered physically handicapped through a vaccination. In a cold-blooded way the department told the parents that they could exchange the child for a healthy, normal one. My cousin kept the boy until he died at the age of 14 and had to do everything for him. Call to Australia is concerned that young handicapped people do not receive enough home care assistance.

Last night I also stood and watched the Mount St Bernard's school children. The handicapped are so loveable. I talked to one young mother whose daughter was taking part in the choir singing. She looked to be in her thirties and I thought of how her life would be taken up in caring for her daughter. She will have the same fear as my cousin and his wife of dying first. Colin said to me later, "Elaine, it is a terrible thing to say, but I am so glad Melinda went first. We no longer have the fear of dying first". Call to Australia begs the Government to look upon the handicapped as human beings and to care for them to relieve their families of the stress they are undergoing. Promises and good intentions are not enough. We ask the Government to put the money where it is needed. Over the years I have often said that those who are unaware of the problems caused by alcohol and drug abuse - especially parliamentarians - should live with a family or take a child into their home so that they can experience the emotional distress and trauma that parents have to go through. They would have to do so for much longer than a week or a fortnight to understand the full extent of the problem. Call to Australia asks the Government to have a heart and to cooperate with the parents and the council.

The Hon. J. F. RYAN [11.45]: I wish the remarks I make this morning in my contribution to the debate on this matter of public importance to be positive but I am compelled to start with a moment of negativity. If ever one needed proof there are some members of the Australian Labor Party who would

seek to politicise the issue and milk it for every vote they believe it to be worth, one needed to do no more than listen to the speech the Hon. Jan Burnswoods made a few minutes ago. It was full of clever political invective. The honourable member played all sorts of games with the $50 million she alleged was underspent. The Government has explained those claims again and again and responded appropriately to them. But, the peak of the honourable member's hypocrisy occurred at the point at which she was talking about Riverglade. She supported the need to house in group homes the people who used to live there. As Oppositions usually do, she complained there was never enough accommodation, yet she also

criticised the Government for selling the property once it was empty. One cannot have both.

The honourable member is playing to a political crowd in Gladesville. It is well known that she is the duty MLC to assist the Labor Party's chances in that seat, and she wants to play both sides of the argument. The honourable member's contribution was an excellent example of an unhelpful contribution to this debate. Having got that off my chest, I should now like to make what I believe will be a positive contribution on the subject of services for people with intellectual disabilities. First, I should like to join with other members in congratulating the Hon. R. D. Dyer on bringing the issue forward for debate today. It is not normal for Government members to bring such motions before the House; it is more common, when there are concerns of this nature, to work within the normal forms of the party room. I can assure the Hon. R. D. Dyer, as I have told him and members of his sector many times, that I have pursued this issue vigorously in our party room and in many personal conversations I have had with Premier John Fahey on the issue.

The only reason that there has not been an immediate response to the representations that I and other members of the Government have made is because the issue is so difficult. In the few minutes I have available to speak, I wish to give the House a vision of how difficult the issue is. There are no silver bullets that can be applied to this desperately difficult problem. Nevertheless, I assure the House that many members of the Government are taking an enormous interest in services for the intellectually disabled and exerting a great deal of pressure within the Government to get an adequate response to the need. A demonstration of that response occurred at the meeting held at Baulkham Hills. The Government was represented by no fewer than three members. There would have been a fourth except that the honourable member for Ku-ring-gai had an urgent and unforeseen family problem.

I attended the meeting to represent the Minister, as did the honourable member for The Hills and the honourable member for Eastwood. At the Federal level the honourable member for Berowra attended, having formerly been a shadow minister for community services. Concern is held on both sides of the House, and many people are working hard to focus attention on this deserving issue. The people attending the meeting at Baulkham Hills made strong representations. They demonstrated beyond a doubt, if there were any doubt about it, the enormous difficulties faced by those struggling with disabled people, particularly those with high support needs, in their homes as they age and as those they are caring for age. One of the most powerful demonstrations of concern was the presentation of a video that has probably been presented at many of these meetings across Sydney. I believe I have a note in my diary of another one at Mascot. The video featured Kathryn Greiner when she was a television presenter interviewing a couple of parents who were having difficulties. If a powerful demonstration were needed, this was it. Kathryn Greiner is certainly able to be identified as a person readily associated with the Liberal Party.

A recent survey conducted by the New South Wales Council for Intellectual Disability revealed that 585 people have a critical need for accommodation of the type offered in group homes. For the Government to meet such a need immediately would require funding of $30 million to $40 million to build houses and a further $30 million to $40 million a year in recurrent funding to provide staff to cater for the extensive support services necessary in those homes. The funding that would be required to accommodate the intellectually disabled is equivalent to the funding necessary for the building and servicing of a normal district hospital within a metropolitan area. The resources required are enormous. And such funding would cater for only those whose needs were critical. It would not meet the needs of those who will need services into the future.

Because of the enormity of the funding that would be required, it is not surprising that a significant lead time is necessary to enable policies to be formulated and, subsequently, for resources to be made available. I can assure the House that work is being done within government to respond to those needs. In all the speeches I have heard from members of the Labor Party there is a similar level of concern to that which I express, and I commend them for that concern. However, and without withing to be political, I have not heard one member opposite commit the Labor Party to putting even one dollar towards

services for the disabled. That demonstrates to some extent the difficulty of the issue. It is not possible to flag a sum of money and spend it tomorrow.

One attempted demonstration of how easy it would be for the Government to provide funding was a suggestion that an allocation of $50 million that had been made for this purpose remained unspent. That $50 million is being held in trust for another group of people with disabilities. Those people are not part of the group of people with disabilities to whom we are referring. Some of those persons are living in facilities that have been transferred from the Department of Health to the Department of Community Services. The recurrent budget for those facilities, part of the budget of the Department of

Community Services, enables those services to continue. One example is the Peat Island facility, which has a budget of about $7 million a year.

In the short time available to me in this debate I cannot explain all the difficulties associated with deinstitutionalising those people and moving them into the community. I am sure that the Hon. R. D. Dyer is aware, as I am, of the concerns of the parents of people with disabilities in that facility. The reason that the $50 million is not being spent instantly is that many people accessing those services do not want those with disabilities moved out. If that money were to be spent in another place, it would not be available to fund the movement of those persons into the community. It is not practical to rob one group of disabled people of funding and spend it on another group of people with different disabilities. It may be a clever political ploy, but it is without integrity to ostensibly speak seriously and publicly about the non-spending of that $50 million. I am sure that that is a clever political line that we will continue to hear between now and the March general election, but it is an argument that is without credibility.

I acknowledge the needs of people with intellectual disabilities, but it would be of no use spending money allocated to meet the needs of other persons with serious disabilities to resolve the difficulties of those with intellectual disabilities. This is a program that needs new money, new funds in the future. Of course, I join with the Opposition in urging the Government to make quick progress on commencing a program that will start to meet the identified needs, but the Government is not without a most impressive record on meeting the needs of people with disabilities. Supported accommodation expenditure has increased by more than 25 per cent over the past five years. The response made under the post-school options program, which was introduced last year and continues this year, is well known. The home and community care budget has grown from $52 million in 1984-85 to $231 million this year.

Time does not permit me to detail other initiatives of this Government. Nonetheless, it has an impressive record of achievements for people with disabilities. I agree that the provision of accommodation for people with intellectual disabilities is a matter that the Government has not commenced to deal with, but I believe the Government will make an appropriate response for this group of people - those caring for ageing people with intellectual disabilities - into the future. I welcome the support of persons from all sides of politics as we seek to meet those needs in the future.

The Hon. R. D. DYER [11.55], in reply: I thank honourable members who have participated in this debate for their contributions. I include, of course, my colleagues the Hon. Ann Symonds and the Hon. Jan Burnswoods, but I extend my thanks also to the Hon. Elaine Nile and the Hon. J. F. Ryan, both of whom I thought spoke with great sincerity. I do not doubt the sincerity of those members and of course my colleagues regarding this particular matter. However, I express great concern about the failure of the Hon. E. P. Pickering, albeit in a representative capacity, to use his allotted time of 15 minutes to respond to the concerns expressed by the Opposition.

Since Parliament resumed for its current sittings on 13 September I have raised three different matters of public importance, all of which have been responded to by the responsible Minister, representing in some cases the Hon. Jim Longley, the Minister for Community Services. On the two previous occasions the response was adequate and complete. The Minister for Education, Training and Youth Affairs responded on behalf of the Hon. Jim Longley regarding children's services funding and used

her allotted time. So too did the Hon. J. P. Hannaford, the Attorney General, and Minister for Justice, when responding to concerns I expressed about children's courts at Camden and Campbelltown. On this occasion, though, there was an insultingly brief response to a matter of very grave public concern.

I was not watching the clock, because I had an expectation that the Minister would exhaust his allotted time of 15 minutes, but, thinking back - and I will check *Hansard* tomorrow - I now doubt that the Minister spoke for three minutes, or four minutes at the most. That was about one-fifth of the time available to the Minister to speak about this serious issue. I am not blaming the Minister for Energy, and Minister for Local Government and Co-operatives, for whom I have considerable respect, as he well knows. He was speaking for and on behalf of the Minister in the other place, the Hon. Jim Longley. The short duration of the Minister's speech was evidence to me that either Minister Longley is not in control of his brief or, more likely, that he does not assign sufficient priority to this matter. After all, it was the Hon. Jim Longley who provided the briefing for the Minister for Education, Training and Youth Affairs on children's services funding. If the Hon. Jim Longley or a scribe in his office could do that on the previous occasion, one would think that the Minister would be quite capable of furnishing the Minister for Energy, and Minister for Local Government and Co-operatives with 15 minutes worth of material with which to respond to this issue.

Reverend the Hon. F. J. Nile: He was not provided with an extensive speech.

The Hon. R. D. DYER: He was not provided with more than a skerrick of a speech. It was the mere beginning of a speech. I think that was an insult to this House and -

Reverend the Hon. F. J. Nile: It is the first time that this has happened.

The Hon. R. D. DYER: It is the first time it has happened. I have been a member of this place for 15 years, and it has not happened in that time. I find it quite astonishing and insulting that Minister Longley should treat this House and this subject with such
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contempt. This matter affects the lives of people with intellectual disabilities. That is not an unimportant consideration. We ought to be paying very close attention to the matter. I will conclude my remarks after the luncheon break.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! Pursuant to sessional orders, business is interrupted for the taking of questions.

QUESTIONS WITHOUT NOTICE

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KILLARA JAPANESE LANGUAGE CULTURAL CENTRE

The Hon. FRANCA ARENA: I ask the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier a question without notice. Was a special fund set up to handle any contributions for the establishment of the Japanese Language Cultural Centre on the Killara primary school site? If so, is that fund the group she has referred to as the New South Wales Education and Training Foundation? Was any member of the Sanwa group a contributor to any such fund or to the New South Wales Education and Training Foundation? Did the Sanwa group contribute in any way to the financing of the Japanese Language Cultural Centre proposed at Killara primary school?

The Hon. VIRGINIA CHADWICK: I know that the honourable member has an absolute fixation about the proposed Killara Japanese centre. I simply repeat what I have said a number of times in this

House, which is that the funding for the proposed Japanese centre in the grounds of Killara Public School has been made available through the Education and Training Foundation.

The Hon. Franca Arena: By whom?

The Hon. VIRGINIA CHADWICK: The honourable member displays her absolutely abysmal ignorance in this regard. The Education and Training Foundation is funded from a levy that is placed on all employers in this State. That levy is collected and applied to a number of initiatives in my department and countless other departments, and indeed in private enterprise training. It was an initiative of this Government and is payable by most employers in this State.

KILLARA JAPANESE LANGUAGE CULTURAL CENTRE

The Hon. FRANCA ARENA: I ask a supplementary question. Was any member of the Sanwa group a contributor to a fund or to the New South Wales Education and Training Foundation? Was the Sanwa group a contributor to this fund?

The Hon. VIRGINIA CHADWICK: I will do what I can to ascertain that. As I said, the funds that are available or were available through the Education and Training Foundation derived from a specific levy on employers for that purpose, which, I repeat, was an initiative of this Government. A certain percentage of those funds comes from payroll tax paid by all employers in this State.

The Hon. Franca Arena: So the Sanwa group did not make any contribution?

The Hon. VIRGINIA CHADWICK: In a sense I suppose a percentage of their payroll tax, depending on how many employees they have in this State, could conceivably have gone into this fund. I would not have a clue but I will find out. If the levy is a percentage of payroll tax paid by all employers in the State, you could well say that every employer in New South Wales made a contribution to the Killara Japanese centre. I am not quite sure where that advances the racially discriminatory and quite offensive fixation that the honourable member has with this company.

MINISTRY FOR THE STATUS AND ADVANCEMENT OF WOMEN REFURBISHMENT

The Hon. HELEN SHAM-HO: My question without notice is directed to the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier. Following the question without notice asked by the Hon. Dr Meredith Burgmann yesterday, about which I was very concerned, can the Minister tell the House whether there is any further information on this saga about Mrs Bridge?

The Hon. VIRGINIA CHADWICK: As is obvious from her comments in another debate yesterday, the Hon. Helen Sham-Ho certainly shares my agitation and concern with what I thought was a quite scurrilous attack on Jane Bridge and her family and the Ministry for the Status and Advancement of Women. The attack has been pursued now for over a week in debate in another place, in the estimates committee, in this House and during question time yesterday. Yesterday the Hon. Dr Meredith Burgmann asked in this House during the course of a question, "Given that the documents supplied by the Minister clearly show that the firm of the husband of the director, Kimberley Jackson, did tender for the 1994 refurbishment, how can she make this claim?" and she asked me to assure the House that no money was paid to the firm Kimberley Jackson as a result of all of this.

The honourable member has bungled incredibly, and I really question her motivation and seriously question her credibility because, as I said, she alleged during question time yesterday that Kimberley Jackson was the name of an architectural firm owned by the husband of the director of the Ministry for the

Status and Advancement of Women. She also claimed that the documents released by my colleague the Minister for Industrial Relations and Employment showed that Kimberley Jackson had tendered for refurbishment work at the ministry. Clearly this is an extraordinary

bungle because the honourable member clearly had not adequately read the document. In fact Kimberley Jackson is the name of an employee in one of the companies tendering for the work, a company not owned by the husband of the director of the ministry. I question either the motivation of the honourable member or her intelligence, because rather than Kimberley Jackson being a firm - I actually have the letter and it refers to Kimberley Jackson as "Dear Ms Jackson" - it is the name of the employee. To add insult to injury, Kimberley Jackson is a female employee. The letter states:

> Thank you for submitting your quote for the proposed work for the Ministry for the Status and Advancement of Women, however in this case it has been unsuccessful.

The successful tenderer was Public Works Interiors. Kimberley Jackson is not a company, she is an employee, who also happens to be female - despite the perpetuated attack on women by the honourable member. The letter advised that they were not successful; the successful tenderer was the Public Works Department.

PUBLIC HOSPITAL OUTPATIENT DEPARTMENTS FUNDING

The Hon. ELISABETH KIRKBY: My question without notice is directed to the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Health. Is it a fact that the Commonwealth Government is proposing to take direct financial control of all public hospital outpatient departments? Is the New South Wales Government involved in negotiations with the Federal Government on this matter? Will the proposal mean that further funding will be available to New South Wales to trial different ways of providing hospital outpatient care? Does the Government support this new initiative? If not, why not?

The Hon. VIRGINIA CHADWICK: I thank the honourable member for what is obviously a most important question, if indeed the matters raised are correct. I regret to say that I do not have information available to me to provide an adequate answer, and I will refer the question to my colleague in another place.

JOINT ESTIMATES COMMITTEES

The Hon. B. H. VAUGHAN: I address my question without notice to the Attorney General, and Minister for Justice, in his capacity as Leader of the House. I wanted to ask this question a couple of days ago. The Minister will recall that the estimates committees were to comprise nine members of the lower House and nine members of the upper House. In the event there were nine members of the lower House on each committee but only seven from the upper House. Can you tell the House how that happened?

The Hon. J. P. HANNAFORD: The honourable member will recall that I had moved that the number of members of this Chamber on the estimates committees be increased from five to a number equal to that of the Legislative Assembly. I proposed that there should be two members from the crossbenches and one additional member from the Government, to maintain equilibrium. It was my understanding that the proposal of the lower House was for seven members of that House and five members of this Chamber. However, with the amendment to increase the number of Legislative Council members from five to seven, the numbers would then have been equal.

Debate proceeded in this House on the basis that the figures being discussed were seven members

from the lower House and five from the upper House, and that the upper House wanted equality. After the rising of the House my attention was drawn to the fact that the original proposal had been for nine members of the lower House and five of the upper House. It was not only all members of this House who understood there would be seven members of this House; the Clerks were under the same impression. The records for last year show that the figures were nine and five. I do not know how all honourable members gained the wrong impression.

Reverend the Hon. F. J. Nile: I think it was based on attendance.

The Hon. J. P. HANNAFORD: It could well have been based on last year's attendance. The matter was debated in the belief that there would be seven representatives from each House, but after the House had risen I was informed that the figures were nine and seven. Following my negotiations with the other House the lower House resolved to agree that the numbers from each House should be equal. That is an important step forward. In future estimates committees the numbers will be equal. It was noted in the other place that although it had been agreed that there should be equal numbers, the estimates committees would have only seven members appointed by the upper House. I expect that in future the lower House will reduce its numbers from nine to seven or that this House will increase its numbers to nine, which would provide an additional Government member and an additional Opposition member. As I said in the debate, estimates committees are still in their infancy, but at least there has been recognition from the lower House that this House should be treated as an equal Chamber in the Parliament and that each House should be represented equally on these types of committees.

The Hon. J. R. Johnson: You will eat those words.

The Hon. J. P. HANNAFORD: No. I am saying these words deliberately.

The Hon. B. H. Vaughan: We will accommodate you.

The Hon. J. P. HANNAFORD: The Deputy Leader of the Opposition will not get the opportunity. It may be that if a government were to decide that the lower House did not wish to be involved in estimates committees, this House may have to consider whether there should be estimates committees of the upper House. I say that deliberately.

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TEACHERS FEDERATION ADVERTISEMENTS

The Hon. Dr MARLENE GOLDSMITH: Will the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier inform the House of the accuracy of the New South Wales Teachers Federation advertisements that have appeared in today's newspapers?

The Hon. VIRGINIA CHADWICK: I thank the honourable member for her concern for all the higher school certificate students who are today doing an English examination. The timing of the mischievous, erroneous and misleading advertisement of the Teachers Federation in today's metropolitan press which claims that this is the last fair HSC is outrageous. It is not only outrageous, it is a breach of faith. Since my appointment as Minister there have been times when the Teachers Federation executive and I have disagreed, and the level of disagreement has varied. However, the one thing we have both held dear is our determination not to disadvantage students, and particularly not to bring the credibility of the HSC - a world-class credential - into disrepute. I am disappointed that the Teachers Federation has breached the faith and understanding that I thought we had developed over a long period.

The Hon. Dr Marlene Goldsmith asked if the assertion in the advertisement is true. This is not the last fair HSC. Over the past couple of years I and this Government - with widespread community support - have been in favour of trying to make the HSC more flexible through the pathways policy. That policy

relates to students who accelerate through the HSC, the capacity for students to do the HSC in TAFE colleges, and the capacity for students to do part-time work and stretch the HSC out over a couple of years. All those things have been warmly supported by the community. People have voted with their feet by determining to undertake courses of study. Schools have the capacity to decide, together with their student body, that if year 11 work has been completed, students can start year 12 work in the last term of year 11.

I disagree that this is the end of the HSC as I know it. Is that an aberration? Is it a determination that suddenly I or the board of studies dreamed up overnight, without consultation? This has been one of the raft of ideas that has been around since at least 1992. The last time I heard from the Teachers Federation prior to this recent spate of concerns was at some community forums as long ago as 1992. This matter has been dealt with by the Board of Studies, not only in its structure but through two board meetings. It has been up for public consultation. We must ask ourselves what is our Board of Studies and who is on it. Today, because of my annoyance and distress about this matter, I took the trouble to obtain a briefing from the Board of Studies. The briefing stated:

> The Board's office has no record of a response from the New South Wales Teachers Federation to the consultation document, and the records of discussion following the consultation process do not mention concerns regarding the relative capacity of schools to implement the initiatives.

A document was sent to the Teachers Federation for consultation, and there is no record of the federation raising these concerns. However, suddenly it is sufficiently concerned that in the middle of the HSC it has taken out paid advertisements. It needed to take out paid advertisements because no fair-minded journalist would print such drivel. The Teachers Federation has to pay for it. The board's minutes and reports of the board's standing committees do not identify individuals, but the recollection of officers present during discussions are that the concerns of the federation were confined to two issues, neither of which relate to this matter. As I said, the matter was discussed in detail, not only through community forums and consultation documents but also at two full board meetings of the Board of Studies. The question arises: is the New South Wales Teachers Federation represented on the New South Wales Board of Studies? Too right it is! Who were the Teachers Federation representatives on the Board of Studies at the relevant time? They were Lyn Ruytenberg and Denis Fitzgerald. Who signed today's advertisement? Could it be exactly the same Denis Fitzgerald who sat on the Board of Studies in the relevant period and did not object?

RU486 ABORTIFACIENT TRIALS

Reverend the Hon. F. J. NILE: My question is directed to the Attorney General. Is it a fact that the RU486 abortion pill is being tested by the Family Planning Association and others in New South Wales without proper approval by the Federal or New South Wales health Ministers or safeguards to protect the health of the test group of women? Is it a fact that Mr Justice Kevin Lindgren has rejected the application of the Right to Life Association New South Wales and refused to hear the association's case because he ruled the association had no standing to mount the case? Will the Attorney General support the Right to Life Association New South Wales in its appeal against the decision of Mr Justice Lindgren, and, in the public interest and to ensure natural justice, will he grant a fiat to allow the association standing so that it can proceed with its application and so the court can consider the merits of the association's objections to the testing of the RU486 abortion pill?

The Hon. J. P. HANNAFORD: I am not in a position to comment on the first part of the question. I have not acquainted myself with the health aspects of this issue and I have not caught up with the decision of Mr Justice Lindgren. However, an approach was made to my office, possibly some months ago, about the grant of a fiat. To my recollection, the approach was made by a firm of solicitors. I indicated that there is a procedure to be followed in the obtaining of fiats and that my department should be contacted to obtain advice -

The Hon. J. R. Johnson: I asked you.

The Hon. J. P. HANNAFORD: The Hon. J. R. Johnson did ask me, but I recall that subsequent to that a firm of solicitors contacted my office. There is a procedure to be followed in the granting of a fiat.
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As Minister, I have to be satisfied of the chances of success, that the matter is one of public interest and that the granting of a fiat is appropriate. It is not uncommon for fiats to be granted. I remember obtaining the fiat of a former Attorney General in order to take major test cases when I was in private practice. Whether I grant a fiat will not depend on a judgment on the morality of this issue. My decision will be based on well-accepted principles. If my recollection is correct, people were invited to put before me information that would allow the issue to be tested against those principles. I do not recall whether any such material was received. Certainly I do not recall being pursued further on the matter. As Reverend the Hon. F. J. Nile has raised the issue, I shall do a double-check.

Reverend the Hon. F. J. Nile: But you have not said yes or no?

The Hon. J. P. HANNAFORD: I certainly have not said no. I shall find out exactly what has occurred with that application, and provide the honourable member with that information.

Later,

The Hon. J. P. HANNAFORD: Earlier today I was asked by Reverend the Hon. F. J. Nile about the grant of a fiat. Inquiries have been made. We have no record of any contact concerning the seeking of such a fiat. It is possible that because the procedure will be taken to the Federal Court and be related to federal legislation it was considered appropriate that - if there was to be a grant of fiat - it should be a fiat granted by the Federal Attorney-General. I suggest that if inquiries are to be made, they should be made at the Federal level. As the Hon. J. R. Johnson intervened to raise this matter with me, it may be that the honourable member should speak to the Hon. J. R. Johnson to see whether he could bring the matter to the attention of the Federal authorities.

COALITION PARTIES ELECTION CAMPAIGN

The Hon. M. R. EGAN: My question without notice is directed to the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier. In light of the Minister's declaration yesterday that she would not campaign beside Mr Griffiths at the next election, I ask whether she will campaign beside the member for Blue Mountains at the next election? If not, why not?

The Hon. VIRGINIA CHADWICK: The honourable member should not base his questions upon matters that he reads in newspaper reports that have not been verified, authorised or run past me. What happens in my party room is a matter for my party room. I most certainly will have those matters debated, but they will be confined to my party room. They are not relevant questions to be addressed in the House.

SAFE HAVEN PROJECT FOR YOUTHS ON BAIL

The Hon. R. T. M. BULL: My question is addressed to the Attorney General, Minister for Justice, and Vice President of the Executive Council. The Minister referred this week to a pilot project being run in Wagga Wagga involving safe homes for youths on bail. He said that the project would be for youths who normally would be refused bail for the sole reason that they did not have a home to go to. Can the Minister tell the House what the project will involve?

The Hon. J. P. HANNAFORD: As a person from the Wagga Wagga area, the Hon. R. T. M. Bull

obviously takes a great interest in projects that I seek to pilot in that region. His question relates to what is titled the Safe Haven project. The honourable member is correct in that recently I announced the development of a Department of Juvenile Justice family placement scheme that will be piloted in the Wagga Wagga region. The Department of Juvenile Justice and the Department of Community Services are developing a new program to improve support for young people who have come before the children's courts. The scheme, which, as I said, is to be known as the Safe Haven scheme, will place young offenders who are at risk of entering the juvenile justice system because they would be homeless if they were allowed bail with carers on a short-term basis.

The community at Wagga Wagga has been chosen to run the first pilot project because that community has shown an avid interest in the care and management of juvenile offenders. The project, if successful in Wagga Wagga, will allow sympathetic and trustworthy people in the New South Wales community to take more responsibility in caring for and assisting disadvantaged youth. That in turn will help to break the cycle of crime, by providing positive role models in a safe and supervised environment. Homeless youths who come into contact with the law face the possibility of entrenchment in the juvenile justice system because of the current shortage of suitable foster care arrangements. Many of these young people are deemed to be at risk because of their dangerous lifestyles and are likely to be refused bail because appropriate support, supervision and care are not available within their immediate family network.

In many cases, if children have lived at home they have been the victim of either physical or sexual abuse at the hands of family members, and only their crime has brought that situation to the attention of the authorities. Often, the kids go out and commit crime because of the violence against them at home. In many other cases young persons are living in a home where either one or both adults are alcoholic. In those cases, it would be inappropriate for the Children's Court magistrate to put the children back into their homes. Prior to this project being trialled, the only choice open to a magistrate was to order that the children be held in a detention centre. Local refuges, of which there are a number around the

State, are often inappropriate places for young people, who may have developed a streetwise nature and act aggressively when around people their own age.

In an attempt to divert those young people from spending periods in custody while a matter is waiting to be heard by the courts, the Department of Juvenile Justice launched the Safe Haven project. Foster families will receive only youths who have been deemed suitable for the program. Youths who have committed crimes of violence will not be placed in the program and youths who have committed more than one offence will not be considered suitable for it. The project will be for young first offenders who have committed minor crimes and have nowhere to go except a detention centre.

The pilot scheme, when put in place, will identify suitable carers in the Wagga Wagga community - and that is the general community, not only Wagga Wagga itself - who are willing to work with young people between the ages of 10 and 18 years, although the majority of the youths will be between the ages of 12 and 16 years, who have come into contact with the criminal justice system. Quality training will then be provided to assist in coping with and understanding the difficult type of behaviour that these young people exhibit. Financial support will be provided by the Department of Juvenile Justice for carers involved in the scheme. Obviously, that may have to vary depending upon the amount of support that will be needed for particular young people.

The Hon. Ann Symonds: There should be an added payment for the degree of difficulty of care.

The Hon. J. P. HANNAFORD: I am going through a pilot project: I am being piloted through it at this stage.

The Hon. R. D. Dyer: For how long?

The Hon. J. P. HANNAFORD: We are considering initially a period of 12 months to see how it goes. If I can get this bedded down, my desire is to spread the project throughout the State as quickly as possible. An officer based in Wagga Wagga has been released from her normal duties and has been dedicated to identifying and developing the practices, the procedures and the training programs to ensure the success of the project. It will also focus on the relationship between government departments and the community in order to better develop lines of communication and increase the quality of service that will need to be developed to facilitate the statewide expansion of the program.

The benefit of a stable, caring and supervised environment, such as that which could be provided by selected carers under the Safe Haven family placement scheme, could assist on a permanent basis in diverting young people from an eventual custodial sentence. The Department of Juvenile Justice has already started advertising for families to become involved in the scheme. I hope that it will be supported by the local community. I also hope that this worthwhile program, which has received endorsement from many community groups throughout the State, will be supported by all members of this Chamber and will encourage people to put forward their names to be part of the Safe Haven caring and support scheme.

SEXUAL HARASSMENT

The Hon. ELAINE NILE: I direct my question without notice to the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Industrial Relations and Employment, and Minister for the Status of Women. Is it a fact that the Niland report into the Griffiths sexual harassment complaint has revealed an amazingly disgraceful lack of awareness concerning what constitutes sexual harassment? What action is the Government taking to introduce preventative education programs on sexual harassment, what it is and how to deal with it? Will the Government, in cooperation with the Presiding Officers, introduce such preventative education programs for all Ministers, ministerial staff, and members of the staff as part of their orientation following their appointment or election?

The Hon. VIRGINIA CHADWICK: I would like to think that there is not an abysmal ignorance of that subject by all members, but certainly the Niland report suggested that there are still members in the community who appear to have a great ignorance of what constitutes sexual harassment. I and my colleagues have read with considerable interest the other comments and suggestions made in the Niland report about ethics, codes of conduct, training, and identification of persons in a ministerial office or other workplace where people can make a complaint. The Premier has already said in the other place and in public forums that he has been considering these matters and has raised them in preliminary discussions in Cabinet.

Normally one does not talk about what happens in Cabinet, but in view of what the Premier has said I feel free to say that it is true. We have had preliminary discussions about it. Because we received the report only within the past few days there has only been preliminary discussion about some matters identified by Ms Niland. There is an absolute determination by the Premier and the Government to ensure that some of the weaknesses that have been identified by that report, whether in education or codes of practice, are tightened up, in the hope that none of us, particularly women in the workplace, ever again have to go through the trauma of recent times.

PRISONER GREGORY WAYNE KABLE

The Hon. J. W. SHAW: I address my question to the Attorney General. I refer to a prisoner, Gregory Wayne Kable, and to allegations that he has been writing threatening letters. Has Kable been charged under sections 31 or 33B of the New South Wales Crimes Act 1900, or under Federal postal laws? If not, why not? Would not such charges, if laid, provide a basis for his ongoing detention?

The Hon. J. P. HANNAFORD: The honourable member refers to a matter which is of concern to me, relating to a person who is before the court on charges under either section 31 or 33 or even under Federal communications legislation. My understanding is that he is facing up to three charges and that they were recently before the court. I do not want to go into those matters in detail, and as honourable member will understand. The maximum penalties for those offences are not overly burdensome compared with maximum offences that otherwise may be available. The honourable member is adverting to a recent announcement of mine that I intend to introduce legislation relating to preventive detention. That may happen today. My concern is that there are people who have committed serious offences of violence, who have been incarcerated as this gentleman has been, but have not, during that incarceration, learned anything.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! Can I ascertain from the Minister whether there is legislation before the House on this matter?

The Hon. J. P. HANNAFORD: Yes, I have given notice of the legislation.

The DEPUTY-PRESIDENT: Therefore I have no alternative but to rule the question out of order.

The Hon. J. W. Shaw: On a point of order: the Attorney General seems happy to deal with the question - he virtually has. The legislation, as we apprehend it, is completely general in its nature. I am asking the Attorney about a particular case directed to a particular prisoner.

The Hon. J. P. HANNAFORD: I will be guided by the ruling of the Deputy-President.

The DEPUTY-PRESIDENT: Order! I understand the concern of the honourable member and the Attorney General, but under the standing orders of the House I must rule a question out of order if legislation concerning it is before the House. When the legislation is introduced this afternoon, the matter may be clarified.

LOCAL GOVERNMENT COUNCILS RELATIONSHIPS WITH ABORIGINAL COMMUNITIES

The Hon. J. F. RYAN: Can the Minister for Energy, and Minister for Local Government and Co-operatives advise the House what strategies have been initiated to improve the relationship between councils and Aboriginal communities, and to encourage councils to adopt practices consistent with the various reports on Aboriginal and Torres Strait Islander issues?

The Hon. E. P. PICKERING: The honourable member has asked a most important question. In recent years all levels of government have paid greater attention to their responsibilities toward Aboriginal and Torres Strait Islander people. That change is commendable. Though some of these improvements are the result of local initiatives, it has been necessary for certain obligations to be imposed upon local government to help accelerate this trend. Many reports on Aboriginal issues have identified a wide range of problems and have made a number of recommendations as to how practices might be changed for the better. They target matters of social concern that are quite typical for the whole of Australia. For example, the mainly urban report by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, in 1992, said that although remote communities have been so glaringly lacking in any basic facilities and services, Aboriginal people living in metropolitan areas also had problems quite unique to their way of life. That report calls for closer scrutiny of how services are delivered to Aboriginal people, and whether they are delivered in the same way as they are to non-Aboriginal people.

The Royal Commission into Aboriginal Deaths in Custody and the community youth support task

force singled out employment, infrastructure provision, substance abuse and local governance as some of the main issues of concern. Questions of access and equitability were also raised. In addressing these issues the Government has bound the Department of Local Government and Co-operatives to the principles contained in a 1992 document - the national commitment to improved outcomes in the delivery of programs and services for Aboriginal peoples and Torres Strait Islanders. This tripartite, intergovernmental agreement advocates consultative processes, particularly in terms of the planning, management and delivery of services so as to ensure access and equity for Aboriginal people.

The uniqueness of local government places it central to the proper management of many of these community problems. Elected members and professional officers of councils cannot escape these responsibilities. The Local Government Act 1993 has built-in requirements that oblige councils to pay closer attention to Aboriginal matters. For example, there is a requirement for an annual draft management plan, and for three-year plans of management to be prepared. These documents are intended to encourage councils to think strategically, integrating their local planning, infrastructure provision, regularity process and revenue raising to meet the strategic goals of all sectors of the local community.

Specifically, subsections (1) and (2)(j) of section 428 of the Local Government Act compels councils to prepare a report detailing the programs undertaken during the year to "promote services and access to services for people with diverse cultural and linguistic backgrounds". The spirit of this portion of the legislation undoubtedly includes Aboriginal people. The Department of Local Government and Co-operatives and the Anti-Discrimination Board - in consultation with the Local Government and Shires Association of New South Wales and other peak local government professional associations - recently produced an anti-discrimination guideline for councils. This guideline contains a number of references about resolving discrimination against Aboriginal people.

It recommends cross-cultural awareness training for staff, and discusses laws regarding racial vilification and the provision of equitable access to sporting facilities, libraries and museums. Departmental policy encourages Aboriginal people to participate in their local community through local government. Increasing numbers of Aboriginal people are recognising the importance of assisting change in this way. Aboriginal people can contribute to the vitality of an area. The solution to many of the day-to-day problems confronting Aboriginal and non-Aboriginal people alike is in the hands of local government. My department has introduced the local government Aboriginal advisory committee program, which encourages councils to establish formal committees with Aboriginal communities.

These committees are designed to improve communication, understanding and trust between Aboriginal and local government people. The committees provide a common ground where key needs, contentious culturally distinctive issues and council's ability to satisfy a community's requirements within the constraints of available resources can be discussed and explained. Outcomes can engender positive relations and provide a more cohesive local community. Emotive matters often can be resolved through dispute resolution processes before they become complex political issues. I am pleased to say advisory committees have been established in Armidale, Brewarrina, Coonamble, Cowra, Eurobodalla, Gilgandra, greater Taree, Kempsey, Leichhardt, Marrickville, Moree Plains, Nambucca, Orange, South Sydney, Tumut and Wollongong local government areas. A number of other councils have action under way to establish them.

I am also advised that the department is presently developing a draft practice note to assist councils in carrying out their responsibilities toward Aboriginal and Torres Strait Islander communities in their area. The practice note is expected to be issued later this year. Additionally, action is in train to produce a quarterly newsletter for wide distribution to local government and Aboriginal communities in 1995. Action is also being taken to prepare a handbook for Aboriginal people who are considering standing for local government election in September 1995. Members may not be aware that today there are only eight

Aboriginal councillors out of the 1,800 or so available positions throughout New South Wales. That seems to be poor representation when it is considered that about 2 two per cent of the population of this State is Aboriginal.

It is my intention on behalf of the Government to ensure that the Department of Local Government and Co-operatives continues these important programs and builds upon the results already achieved. I have said in this Chamber on many occasions as Minister for Police that as a community we have consistently failed to address the real problems of our Aboriginal community. We have far too often expected those problems to be ultimately resolved by a policeman. I look forward as Minister for Local Government to doing something in a positive and constructive way to address those problems without the harsh and abusive use of the final solution, namely, the police.

YURAMMIE STATE FOREST LOGGING

The Hon. R. S. L. JONES: I ask the Minister for Planning, and Minister for Housing, representing the Minister for Land and Water Conservation, why the Minister for Land and Water Conservation has not intervened to stop logging in the moratorium area of Yurammie State Forest, which is a known koala habitat area. Was this area, known as compartment 987, placed under moratorium by legislation passed by this House in May when alternative supply areas were nominated, and is it also currently the subject of a joint State Forests and National Parks and Wildlife Service study to determine the extent of koala habitat? Did the Minister assure the South East Forest Alliance in August that carry-over operations in the moratorium area, including compartment 987, would finish by the end of September? Why then is clear-felling still continuing, despite this Parliament's clear intention five months ago that logging should stop?

The Hon. R. J. WEBSTER: I am sure my colleague will furnish the honourable member with an answer in due course.

HIGHER SCHOOL CERTIFICATE THREE-UNIT STUDIES

The Hon. JAN BURNSWOODS: My question is directed to the Minister for Education, Training and Youth Affairs. With reference to grave concerns over higher school certificate three-unit work now being available in some schools only in year 11, did the Minister say on 7 September, as reported in the *Sydney Morning Herald*, "All schools are able within their existing resources to provide teachers for this small number of students"? Did the Minister tell this House on 14 September, in answer to a question from me, "Public schools are not to be placed at any disadvantage with any non-government school"? How does the Minister reconcile these misleading statements with reports now coming in from many schools of difficulties they are facing in providing 1995 HSC classes this term, and with her emotional reply to a question earlier today?

The Hon. VIRGINIA CHADWICK: I thank the honourable member for her question, which I have addressed in a number of forums and in my answer to a previous question in this place today. Yes, I did make those comments; yes, I did believe those things; and, yes, I still hold to those comments. I am well aware that some of the schools, whether for industrial reasons or any other reason, are having difficulty not with two-unit work but with three-unit work. I said in the House yesterday that where some schools were having difficulty grappling with this I would ensure that officers of my department went out to help to effect some solutions. That is occurring, and many solutions have been found. It was in the middle of July this year that the Premier, as part of his announcement of an additional 1,466 teachers in New South Wales, identified an allocation of extra staffing resources to the senior high schools area of our public education system. Even where staff are not permanently employed, every school I have visited since July, whether primary or secondary, has teachers who are short-term or long-term casuals.

If there are more teaching resources this year in years 11 and 12 than last year, and if students are currently sitting for their HSC - bearing in mind the decision about Meadowbank where year 12 students are provided with some degree of flexibility in doing the HSC, and with the extra teaching resources they have had since July in senior school - it is not unreasonable to imagine there is flexibility to ensure that students can do three-unit work. In many schools this is happening. If the honourable member is suggesting that the extra teaching resources that went into years 11 and 12 do not provide this degree of flexibility and are of no use whatsoever, she should say so. Many millions of taxpayers' dollars could be saved if that provides no relief at all.

Yesterday a question was asked by the Opposition about a particular school. At the time I said I would ensure that officers of my department would visit the school to see whether it could be assisted to offer three-unit work. The officers did so. The matter has not been fully resolved. I specifically asked whether that school had been using the extra teaching resources provided post-July and, if so, could they not be used to assist years 11 and 12. I was dismayed when I discovered that the person supplied to teach years 11 and 12 was in fact employed to teach year 9. That matter has now been corrected.

HOMEFUND RESTRUCTURE

The Hon. JENNIFER GARDINER: My question is directed to the Minister for Planning, and Minister for Housing. Since the HomeFund restructure legislation was passed by this Parliament in December last year, what progress has been made in either assisting former HomeFund borrowers to own their own homes or, where this is not possible, to provide them with alternative solutions?

The Hon. R. J. WEBSTER: I am delighted to provide the House with that information. Since the passing of the HomeFund Restructuring Act by the New South Wales Parliament in December 1993, the Home Purchase Assistance Authority has made substantial progress in the implementation of the HomeFund restructuring scheme. When that scheme was officially launched in February this year, some 23,000 borrowers were eligible to participate. Since that time over 6,000 of these borrowers have discharged their HomeFund loans, with the majority of these refinancing with a bank or a building society. Of the remaining 16,929 eligible HomeFund borrowers, 13,592, or 80 per cent, have correctly completed and returned assessment forms to participate in the scheme. There are another 847, or 5 per cent, of borrowers whose incomplete assessment forms have had to be returned to them for amendment.

There remain, therefore, approximately 2,500 borrowers who have not responded to have their circumstances assessed for the restructure. Notably, almost half of all borrowers who have not responded are those who were initially determined by the authority as being able to refinance with a commercial lender. All borrowers who had not returned their assessment form by the due date were sent follow-up letters asking for the reason. To date, 1,143 borrowers have responded to this survey indicating that they do not wish to participate in the restructure for various reasons, 28 per cent were considering refinancing with another lender, 53 per cent preferred to stay with the existing mortgage and 11 per cent were considering whether to sell the HomeFund property to live elsewhere.

As a separate exercise, during July and August officers from the advisory service managed by the Department of Consumer Affairs made telephone calls to 550 borrowers and wrote to a further 950 borrowers who had not returned assessment forms, inviting them to contact the advisory service if they wanted advice on the restructure. As can be seen, every effort has been made to reach those borrowers who did not respond. Only 1,347 eligible borrowers have not responded at all to indicate their participation or non-participation in the scheme. Given these statistics, I can only state that the response has been very pleasing and indicative of the strong appeal of the scheme to borrowers.

Members will remember that the HomeFund Restructuring Act provides for borrowers to be placed in one of four categories - A, B, C or D - to determine what assistance they may be eligible for. Category A

borrowers are those who are able to refinance with other lenders. No restructuring assistance is available to this group. To date 2,711, or 20 per cent, of borrowers assessed are in category A. Category B borrowers are those who are unable to refinance but are able to repay their loan with an interest subsidy. These borrowers are offered an income-geared subsidised loan based on initial repayments of 27 per cent to 30 per cent of income, repayable over a 25-year term. So far, 7,107, or 54 per cent, of loans have been assessed as category B. Pleasingly, of this number 78 per cent of borrowers have accepted category B offers.

Category C borrowers are those who are unable to repay their loans, even with an interest subsidy. They are offered the opportunity to sell their property to the Home Purchase Assistance Authority and a five-year rent-back option at subsidised rates. To this point, 3,038, or 23 per cent, of borrowers have been placed in this category, and just under half, 1,487, have taken up the offer. The large majority, 77 per cent, of borrowers taking up the option of selling their home to the authority are also electing to rent it back. Category D borrowers are those who were in arrears in their repayments by three months or more as at 31 January 1994. They numbered over 2,000 at that time. Nearly half of these borrowers, 972, have now been offered assistance under categories B and C. A further 85 have been offered a 15-month temporary stay, during which time they will be required only to pay 27 per cent of their income in repayments, with the authority subsidising any difference between that amount and their scheduled monthly repayments.

Of the remaining borrowers in category D, some 70 have not qualified for any assistance because of their very serious arrears situation, while another 447 have discharged their loans. The remainder have not responded to the several letters sent to them about the restructure. The HomeFund Restructuring Act also gave borrowers the opportunity to appeal to the HomeFund advisory panel against their categorisation. To date 3,100 borrowers have exercised their appeal rights. The vast majority of these have been resolved in favour of the borrowers without the need to refer them to the panel. Of the 360 cases which have been referred, 57 have been decided in the borrowers' favour while many cases have been deferred to enable borrowers the opportunity to provide more information to support their cases. Some 150 cases are currently deferred.

As members may be aware, the HomeFund Restructuring Act did not cover HomeFund borrowers with aged persons' home update loans, rent-buy loans or State partnership loans. The Government has ensured, however, that these borrowers are also assisted with their loans. The interest rate applying to all aged persons' home update loans has been reduced to 8.75 per cent, backdated from the date of origination of individual loans to 31 March 1994. From 1 April 1994, the standard variable rate on bank housing loans applies, capped at the rate specified in the borrower's mortgage. Rent-buy and State partnership borrowers have recently been given specific improvements to their existing loan arrangements. Furthermore, all rent-buy and State partnership borrowers have been sent a package of information on an arrears structuring program for their loans. Those who participate will be assessed in four categories and offered restructuring assistance comparable to other HomeFund borrowers.

The restructuring of HomeFund loans has progressed extremely well during 1994, and will be largely completed by the end of the year. I am confident that by that time the participation rates in the restructure will be at even higher levels than those already achieved. The fact that the restructure has achieved this rate of success demonstrates the willingness of borrowers to seek a practical and non-legalistic solution to their loan arrangements. I believe it also demonstrates that the restructure introduced by this Government and passed by this Parliament will address the reality of HomeFund borrowers' situations. Fortunately, the restructure did not turn the plight of borrowers into a feast for lawyers. Instead, it gave borrowers a fair and equitable way out of difficult circumstances, restoring to them wherever possible the opportunity to achieve their original goal of home ownership.

The Hon. J. P. HANNAFORD: I suggest that if there are any further questions they be put on the

notice paper.

SPECIAL ADJOURNMENT

Motion by the Hon. J. P. Hannaford agreed to:

That this House at its rising today do adjourn until Tuesday 15 November 1994 at 2.30 p.m.

[*The Deputy-President (The Hon. D. J. Gay) left the chair at 1.00 p.m. The House resumed at 2.30 p.m.*]

INTELLECTUAL DISABILITY SERVICES

Matter of Public Interest

Discussion resumed from an earlier hour.

The Hon. R. D. DYER [2.30]: I had commenced my reply to the debate before question time. I made a few pointed remarks about the brevity of the Government's response to my comments on this matter of public interest. I believe that I have adequately covered that aspect, although I am still bemused by the brevity of the Government's response, given the gravity and importance of the subject under consideration. Having said that, I should respond briefly to other matters that arose during the debate. The charge was made that the Opposition is trying to politicise this issue. It seems to me that the issue is being swept under the carpet to such an extent that any reasonable device needs to be used to draw attention to it. If that involves using political means to bring the matter up on the agenda, I am prepared to be accused of politicising the issue.

Politics is all about how the public funding cake is carved up and how the allocations are spent. I ask that the funding be spent to create group homes in the community for people with disabilities. To that extent I am prepared to take a political stance to elevate the matter on the public agenda so that the people involved, who are in desperate need, receive some relief. Another matter of concern to me was a comment made during the brief speech of the Minister for Energy, and Minister for Local Government and Co-operatives. The Minister said that the Opposition is in favour of institutionalisation. That is far from the case. The previous Labor Government moved people from institutions out into the community. Labor Party members now support the attempt to move people into group homes in the community.

The Disability Services Act, which received the bipartisan support of this Parliament and was enacted last year, provides that people have the right to live in the community. That includes people living in a group home that is indistinguishable, externally anyway, from any other house. The Opposition is not in favour of institutionalisation; Opposition members are in favour of community living. I recognise that the Hon. Helen Sham-Ho agrees with me on that point. Another matter of concern was highlighted during the short contribution, which I cannot forget, made by the Minister for Energy, and Minister for Local Government and Co-operatives. The Minister had the effrontery to talk about the International Year of the Family. I realise that the Minister's contribution was a scripted presentation so I shall let

him off relatively lightly. However, regarding the International Year of the Family and the Minister's comment that the Opposition might in some way be in favour of breaking up families, in the sense of people with disabilities being removed from their families, I draw attention to the fact that families are breaking up under the strain of caring for such children. I am aware of such cases.

The Hon. Dr B. P. V. Pezzutti: What are your mates at a Federal level doing about this?

The Hon. R. D. DYER: Why don't you shut up?

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I ask the honourable member not to use such unparliamentary language.

The Hon. R. D. DYER: I accept your ruling, Mr Deputy-President, but I would ask you to restrain the Hon. Dr B. P. V. Pezzutti, who has a habit of engaging in ridiculous and repetitive interjections.

The DEPUTY-PRESIDENT: Order! I call the Hon. Dr B. P. V. Pezzutti to order.

The Hon. R. D. DYER: The Government had the effrontery to talk about the International Year of the Family. I draw attention to the plight of the siblings of a child who has a disability. Those siblings often do not receive from their parents the attention to which they are entitled, because their parents are stretched beyond endurance caring night and day for a disabled child. Surely that is a matter that should be considered in this, the International Year of the Family. Are families not entitled to support? Families are breaking up. The Minister's comment to which I have referred is a red herring, and I am not going to waste any more time on that point. It is interesting to note that the Minister said nothing about the $50 million. The Hon. J. F. Ryan said something about that, and I take on board what he said.

It is my view, however, that it is possible for governments to reorder their priorities. After all, money is money. Why could the money not be spent for capital funding or, if necessary, be split between capital and recurrent funding? It is not good enough that the funds have remained unused, dormant, for five years. I say very firmly to the Government that the funding ought to be used for its intended purpose. If I achieve that objective by politicising the issue or raising matters such as this in the House, I will have achieved my purpose. I thank the House for the opportunity of raising this matter and those honourable members who spoke in the debate. I believe this matter is supported by many honourable members, of different political parties. I should like the Government to act on the matter in response to the multipartite support expressed in this debate.

Discussion of matter of public interest concluded.

STANDING COMMITTEE ON STATE DEVELOPMENT

Report No. 10: Achieving Sustainable Growth: Regional Business Development in New South Wales

Debate resumed from 13 October.

The Hon. JENNIFER GARDINER [2.35]: It gives me great pleasure to return to the debate on the report of the Standing Committee on State Development "Achieving Sustainable Growth: Regional Development in New South Wales - Volume one: Principles for Setting Policy". The House will recall that in my earlier remarks I focused on the fundamental principles of regional development policy laid down by the committee. I also gave a discourse on the committee's recommendations. I turn now to the critical issues raised during the committee's many visits to country areas from one end of the State to the other.

The discussion paper identified a number of critical issues and divided them into the following areas: defining the problem and discovering possible rationales for regional development policies; considering the proper role of the Government in regional development; considering the respective roles of various levels of government - local, regional, State and Federal; and considering how governments realised their objectives in that area. There were also a number of empirical issues about which there has been a great deal of debate in country areas. Some of those issues related to business costs, location factors, impediments to regional development, the extent of subsidies and the effect of government decisions on country towns and cities.

In attempting to define the problem of regional development, the discussion paper explored the notion of balanced State development, the optimal size of cities - whether there was a critical mass they should reach before they could generate business growth - and the size and growth of Sydney. There were three possible positions for governments: non-intervention - not really being particularly active in the field of regional policy development; limited government intervention, whereby government facilitated regional development; or substantial government intervention, whereby government intervened to change regional outcomes. We looked at the respective roles of different levels of government and concluded that many business people in many parts of the State were confused about the plethora of government programs, the perceived lack of coordination between those programs and levels of government, and a general absence of a clearly defined role for each level of government. The committee felt that the level of confusion has been escalating, particularly as the Commonwealth Government has sought to re-establish its role in regional development, something that it departed from in the 1970s.

The Hon. R. S. L. Jones: That is the problem of multiplying programs.

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The Hon. JENNIFER GARDINER: Yes. We focused on the policy options that governments could take: whether they should be focusing on top-down policies compared with bottom-up approaches; scatter gun versus selective targeting of regions; hunting and gardening, which we have talked about before; the duration of incentives, whether they should be ongoing or targeted; and whether assistance should focus on individual enterprises or more generally on whole regions or industry sectors. We also looked at some principal empirical questions: what are the major impediments to regional development? What are the main factors that affect business location decisions? A lot of people have their own subjective ideas and views about that, but we tried to get some objective information. Is infrastructure subsidised in Sydney to the disadvantage of other parts of the State? Is it more expensive, for example, to do business in non-metropolitan areas than in the city? Is there a problem for non-metropolitan businesses in raising capital? And, in what ways do government decisions and regulations impact upon country businesses?

In addition to those fundamental questions other issues were raised at the various seminars held by the committee throughout rural and regional New South Wales, which had not been focused upon in an earlier report of the committee. For example, in places like Albury and Tweed Heads we encountered the cross-border problem of different services being located on either side of the Murray River or the Tweed River and, naturally, people from both sides of the State borders using resources on the other side of the border. One side or the other feels that it is losing out on funding or is having to make up for the population of another State. We also looked at the impediments of relocating individuals who are moving or who might wish to move to country businesses. There is, for example, the individual's perception of what it is like to live in country New South Wales at the present time.

While many people, particularly retirees and benefit recipients, continue to relocate away from Sydney for lifestyle reasons, many people have the perception that country regions are lacking in amenities such as entertainment, education and health facilities, things that are taken for granted in capital cities. The committee heard many times that city people simply will not consider moving to the country for one or more of the following reasons: they fear that if they sell a house in Sydney they will not be able to buy back into the Sydney market. These days, when one is looking at career opportunities for one person in a partnership, one really needs to be looking for two jobs because it is more than likely that the spouse or the partner of the person who is being relocated will also want career prospects in the new town. Families fear that once they have moved to the country the family may become separated, because children will leave home to pursue their own lives, perhaps splitting the family over large geographical areas.

The Hon. R. S. L. Jones: What about the good things about moving to the country?

The Hon. JENNIFER GARDINER: The Hon. R. S. L. Jones says, "What about the good things about moving to the country?" As I mentioned a couple of nights ago in my reply to the Budget Speech, the Minister for Small Business, and Minister for Regional Development is about to try to better promote to people in the city what the quality of life can be like in country areas, including an improved standard of living. For example, some of our best schools are in country areas and the quality of education is excellent in many regional centres. The development of base hospitals in places like Tamworth, Wagga Wagga, Albury, Orange and the north coast has provided specialist health services that did not exist, nor could have been contemplated, in any country centre 10 or 15 years ago. For example, if one had to have a hip replacement one had to go to either Sydney or Brisbane. But the Government has overcome that problem by providing the appropriate infrastructure. The quality of life referred to by the Hon. R. S. L. Jones has to be communicated to people in the capital cities, and if they catch up -

The Hon. R. S. L. Jones: It is a wonderful quality of life.

The Hon. JENNIFER GARDINER: It is a fantastic quality of life. Apart from anything else, one can breathe fresh air. Another problem that people experience in some country areas is the lack of backup in repairing or maintaining sophisticated technical equipment. This problem was raised in areas north of Newcastle, within the radius of that city but far enough away to be a problem, and we came across the same problem down near Nowra. The disparity in fuel costs between city and regional areas has been the subject of a Federal inquiry, and it has caused much unrest in many country areas. We note that unfortunately that inquiry has failed to address the problems that country people have in trying to rationalise why petrol costs so much more in some parts of country New South Wales than it does in the cities. Those questions are not easily explained by simplistic analyses, but we are very disappointed that the Federal Government avoids this topic time and time again.

The Hon. R. S. L. Jones: It needs some pro-active intervention.

The Hon. JENNIFER GARDINER: The Hon. R. S. L. Jones says that it needs some pro-active intervention, and he is dead right. Unfortunately, we will not get it from the current Federal Government. Another topic that was drawn to our attention at the regional seminars was that the boundaries of regions sometimes cause concern. I refer to regional boundaries for administrative purposes of differing government departments, the overlap and the lack of what appears to be commonsense, at some stage, in the definition of those boundaries. We agreed that people in particular regions should be permitted to have a say in map drawing. Our discussions focused on the need for better coordination of government programs at all levels. Another issue that arose was the use of population projections, particularly those of

the Department of Planning. They had caused concern, particularly to some smaller communities, when the projections suggested that the population for a particular place was going to decline and they felt that it had a -

The Hon. R. S. L. Jones: It became a self-fulfilling prophecy.

The Hon. JENNIFER GARDINER: Yes, it did become a self-fulfilling prophecy. People and government departments would look at the figures as if they were gospel, not as if they were some sort of statistical suggestion as to what might happen, and would be turned off going to that place. Then the spiral would be downwards. They felt the population projections were a worry, particularly as they might later prove to have been wrong.

The Hon. R. S. L. Jones: Often they were wrong, too, weren't they?

The Hon. JENNIFER GARDINER: Yes. Some communities gave quite interesting statistics which showed that the projections were wrong; they felt hard done by. The local government development

approval process was of concern in some areas, although the committee was pleased to note that at all levels of government that process had been scrutinised much more in recent times. Some leading-edge city councils like that in Wagga Wagga have put a lot of time and thought into streamlining their approval processes. That example is being followed by local government in other parts of the State.

Flexibility of labour markets in Australia had to be examined by the committee. At the time we were studying this matter the Industry Commission inquiry into regional industry adjustment was proceeding. In many respects it was given fairly short shrift by the Federal Government. The fact that labour markets in country areas tend to be more stable and reliable, and afford longer and more loyal service to a particular enterprise - sometimes from multiple members of one family - can be to the great advantage of non-metropolitan employers.

The Hon. R. S. L. Jones: There is less absenteeism.

The Hon. JENNIFER GARDINER: The Hon. R. S. L. Jones mentions lower levels of absenteeism - and perhaps higher productivity as well - in many of these country industries. That message also has to be communicated to a wider audience. The committee noted that the State Government does not have the opportunity, because of its limited finance-raising power under the Commonwealth system, to raise vast sums of money to pour back into regional development, unlike countries such as the United States which have greater taxing powers. This limits the extent of the State Government's involvement in the field of regional development.

In pursuing its studies the committee examined a wide range of literature. Quite a number of other inquiries overlapped our regional development inquiry. I instance the Industry Commission's report No. 35 on impediments to regional industry adjustment and also the Kelty task force report on regional development. The Kelty task force report, which was reasonably superficial compared with our report, given the time we spent talking to communities at a closer level, was overtaken by other Commonwealth inquiries.

There was a considerable amount of interest in the McKinsey and Company consultative report to the Federal Government on business investment and regional prosperity - what McKinsey called the challenge of rejuvenation. McKinsey saw three key challenges emerging from its study, namely: to stimulate demand by improving lifestyle attractiveness and increasing international exports; to improve businesses with a world-class investment environment, flexible labour markets, switched-on management, a positive investment cycle and competitive hard and soft infrastructure; and to rejuvenate local or regional leadership. If there was a theme throughout our studies, it was the need for more support to be given to inculcating leadership skills in regional and local areas. Committee members also looked at the Commonwealth green paper on restoring full employment, which unofficially was part and parcel of the whole Commonwealth approach to its regional policy review.

The Commonwealth committee on employment opportunities, chaired by Dr Michael Keating of the Department of the Prime Minister and Cabinet, was of interest to our committee. There was also the "Working Nation" policies and programs white paper, presented by the Prime Minister on 4 May. Some of the key implications in that document for non-metropolitan regions included the ones mentioned elsewhere in our report: strategic networking of firms; creation of a first-stop shop and creation of a coordinated body, to be called AusIndustry, for the Commonwealth's enterprise programs, taking note of the need for more and better coordination of the Commonwealth's programs in this area; improved export marketing and promotion; improved investment incentives for pooled development funds; improved and expanded industry information and advisory services; and assistance to firms and financial institutions to address the question of finance for small businesses.

The committee also looked at the discussion paper released by the Minister for Planning, and Minister for Housing, the Hon. Robert Webster, on planning the greater metropolitan region, titled "Sydney's Future", released in October last year. That paper sets the scene and gives a lot of

information about population projections and so on for Sydney, Newcastle and Wollongong. The committee took account of the Sturgess report, "Thirty Different Governments", of the commission of inquiry into red tape. Members look forward to the implementation of many of those recommendations by the Government.

The committee also took account of the first budget of the Hon. Ray Chappell as the Minister for Business and Regional Development. The committee

also had an observer at the Organisation for Economic Co-operation and Development world conference on small and medium enterprises and job creation, held in Sydney. The committee recognises the important role of small to medium enterprises in job creation and the dominance of such enterprises in regional business structures. That conference provided worldwide literature and recent experience with respect to the growth of small and medium enterprises.

That is an outline of the critical issues the committee discovered through perusal of literature, visiting first-hand many country areas, and picking up the issues that people in local communities thought were critical. The committee had the opportunity to include those issues in the first volume of its report. Last week the Parliament had the privilege of a visit from an Irish parliamentary delegation, a select committee on finance and general affairs - a delightful title, under which the committee would have opportunity for all sorts of studies.

That committee met with the two standing committees of the Legislative Council. One of the questions that the delegates asked us related to the take-up rate of recommendations of standing committees by the Government of the day. It was assumed by members - who did not yet have much experience of select committees in the Irish Parliament - that it might be three or four years before the government of the day, instead of reinventing the wheel, might turn back to recommendations in a particular committee report and there find fairly good ideas to be implemented.

It is interesting to read the recommendations of the standing committee in its report. The Minister for Small Business, and Minister for Regional Development, instead of waiting for about three years, has implemented many of the recommendations without waiting for the final volume of the committee's report. I do not want to pre-empt Mr Chappell's response to our committee. It is wonderful to be able to compare the committee's recommendations with the statement on regional development that the Minister delivered a matter of weeks ago. For example, the report stated that one of the key elements of developing successful regional economies is the need to enhance business and training linkages such as networks and clusters. That is one of the focuses in the Minister's statement.

With respect to training, I repeat the comment I made in my budget speech about linkages in new technical and further education facilities being built in country New South Wales and how they relate to particular industry needs in their own regions. For example, hospitality courses are being offered in locations like Port Macquarie and Kingscliff and the equine centre in Scone. TAFE colleges and TAFE courses are being designed to match the needs of regions. Another example is viticulture in the lower Hunter at the Kurri Kurri campus of the TAFE institution. That is one tick for our committee's report, being evidenced in Government policy on education and elsewhere. Predictably, we said we wanted to see an increased commitment to regional development and for all political parties to embrace those principles and policies. The last State Budget increased the regional development budget by $5.3 million to $41.4 million, underscoring the clear commitment by this Government to regional development. In the forthcoming election campaign we look forward to the same commitments from the Australian Labor Party and the Australian Democrats.

Another recommendation called specifically for additional funding for regional development, which also has been acted upon. We wanted to see a whole-of-government thinking and approach to regional development. It is specifically included in Mr Chappell's ministerial statement. Another recommendation was to establish first-stop shops with the view to improving coordination at a regional

level - co-locating government departments concerned with regional development and so on. That can be seen as being well on the way with the Hunter Net headquarters in Newcastle, which has co-located the AusIndustry facilities of the Commonwealth and the New South Wales Department of Business and Regional Development. A classic initiative is the Country Embassy in the State Office Block. I commend members to visit level 24 of that block in order to see the transformation of that floor into the Country Embassy. I am sure members will be impressed. We have another tick for Mr Chappell's action even though it was not making any formal reply to the committee report. He has done better than that. He has the runs on the board in better coordination and promotion.

Another recommendation for increased funding for the regional development board was achieved in each of the last two budgets. There was also the need for the Government to recognise the importance of addressing market failure in regional development policies and that Government actions focus on tackling problems arising from market failure. The finger can be pointed at Mr Chappell. A classic example of where the market fails and affects businesses is occurring now with respect to drought-stricken country centres. He has spoken to many business people in various parts of New South Wales, including those in his own drought-stricken electorate. He has lent more than a sympathetic ear to businesses so affected and set up various ways of assisting them through this period which has been made so extraordinarily difficult by uncontrollable circumstances.

Another recommendation asked the Government to take on board the Sturgess red tape inquiry recommendations. A fair amount of action has followed. There was the recommendation that the Government concentrate on action in regional centres that would add value to regional economic outcomes. Earlier this week I mentioned many projects which the Department of Business and Regional Development had assisted with in feasibility studies, analyses and strategic plans, concentrating on value-adding in each of the New South Wales regions. The Government

further intervened to assist regional development by facilitating finance to regional businesses for start-ups and expansions. Mention was made earlier this week about the business and regional development program having been revitalised and expanded under the current Minister. The same applies to providing information on market opportunities, a point that was earlier referred to in terms of providing potential investors with information.

In the Country Embassy there is a section for export development. Potential investors and purchasers of our products will have one place to go to get information on the productivity of non-metropolitan New South Wales. Part of that recommendation related to increased education and training facilities in that area and there is evidence that has been heeded. Providing improved regional infrastructure has been dealt with this week in detail in this House. It was suggested there need to be continuing incentives for businesses where these would enhance the regions' competitive advantages.

Since the report's recommendations that local councils continue to support regionally-based economic development bodies, develop their own economic development resources and attempt to further streamline the development approval processes, there have been interesting developments. The Dubbo City Council is assisting with the establishment of the Dubbo Development Corporation, with its full-time, highly professional staff. In the latest ministerial statement on regional development funds are to be provided for such regional development corporations to aid their strategic studies and other approved projects.

The report recommended the continuing favour towards the bottom-up approach to regional policy. That is, again, a tick to Mr Chappell and his department. It is the philosophy adopted in putting together the ministerial statement and new policy. We strongly recommended the continuation of targeted regional incentives as opposed to generalised ones. Pleasingly, the targeting of policies is very much part of the ministerial statement. Though we indicated that there is strong evidence that growth of local business is more likely to be successful than the recruitment of outside firms to meet the sustainable employment growth in non-metropolitan areas, we believe that the choice of strategy as to how that

growth might occur should be left to the individual regions. It is pleasing that the Minister, the department and the New South Wales Government support that philosophical basis in their policies.

As part of the philosophy of providing assistance to specific firms, the Government will continue to provide assistance to individual firms based on the capacity of the firm to add to a region's competitiveness and to create employment. We recommended that the Government continue to help fund the short-term costs to firms as to business relocations and expansions and strongly believe the Government should not subsidise business costs indefinitely. Pleasingly, the Government overall supports the committee recommendations as being the most beneficial. This limitless cargo-cult mentality that everybody should get something falling out of the sky is not really the way to give assistance.

The Hon. Dr B. P. V. Pezzutti: Unless it is water.

The Hon. JENNIFER GARDINER: Yes.

The Hon. Beryl Evans: Australian farmers are the only ones in the world who are not subsidised.

The Hon. JENNIFER GARDINER: The honourable member makes a very good point that our primary producers are the only ones who are unsubsidised. Earlier this week I mentioned the reappearance of the word "subsidy" in Government documentation, through the courtesy of Mr Chappell which, as a member of the National Party, I find both breathtaking and refreshing. I read a Government document that had the word "subsidy" contained in it three times, in a positive way.

The Hon. Dr B. P. V. Pezzutti: That is a flashback to the old days.

The Hon. JENNIFER GARDINER: No, it relates to the 1990s.

The Hon. J. R. Johnson: Reminiscences. The glories of the past.

The Hon. JENNIFER GARDINER: No, this is the National in the 1990s.

The Hon. Dr B. P. V. Pezzutti: Not this Government?

The Hon. JENNIFER GARDINER: Yes, this Government, with National Party people in it. What I have done is reflect upon our recommendations and compared them to initiatives that already have been put in place since the tabling of this document, before the Minister has even had the opportunity to respond. The speed of that response is possibly unprecedented. One must ask: if it had not been for the Legislative Council, would we have advanced this far?

The Hon. Dr B. P. V. Pezzutti: No.

The Hon. JENNIFER GARDINER: Exactly. I conclude my comments on this report by saying that already the Government has a fantastic record of achievement in this field. We are seeing a renaissance of regional development through action, not rhetoric.

The Hon. DOROTHY ISAKSEN [3.11]: On 17 September 1992 the Legislative Council resolved that the Standing Committee on State Development should inquire into present business programs and develop strategies to encourage and facilitate the development of business in rural New South Wales. This was initiated by way of a private member's motion of the Deputy Leader of the Opposition, the Hon. B. H. Vaughan. The committee has finalised three major reports arising from that reference. The first was a discussion paper issued in August 1993 which gave a broad outline of the important issues

that were raised following community consultation both by way of submission and travel by the committee

throughout New South Wales. After release of the discussion paper the committee again travelled to various regional centres to discuss with local government, regional boards and business people their reaction to our paper.

I am pleased to report that the discussion paper received wide support and was much in demand. In fact, it has become an important reference paper for those involved and interested in regional development. Acknowledgment has to be given to the assistance of the committee secretariat, and in particular the former director, Michael Jerks, and senior project officer, Mr Paul Collits, both of whom unfortunately have sought new challenges in other government agencies. They are two very talented young men, and I wish them every success in their new positions. I would like to acknowledge also Heather Crichton, who was our committee officer. She has now moved over to the New South Wales Office on Ageing, where I am confident she will make a valuable contribution.

The problems of regional Australia have been receiving attention from a number of quarters in recent times. The Commonwealth's recent white paper "Working Nation" focuses on important regional and industry policies. The initiatives in regional development are the result of a number of inquiries undertaken by the Industry Commission, the Kelty task force, the Bureau of Industry Economics and McKinsey and Company. There was always the danger that those in regional New South Wales would feel they had reached saturation point with inquiries. However, that did not happen, and they recognised that we were focusing on the specific problems of non-metropolitan regions.

There was a lot of attention in the beginning of the inquiry towards the overdevelopment of the Sydney metropolitan area, the high cost of infrastructure, the pollution of our waterways, the pollution of our air, the traffic and transport problems and many of the social problems which are exacerbated by high density living. There have been many arguments about the need for decentralisation as a cure for Sydney's continuing growth and its environmental problems. The committee's view is that it is better to consider the problem of regional economy and the problem of the size of Sydney as two separate problems, despite the intuitive appeal of linking one to the other.

The problems of population concentration in the major cities cannot be solved by just moving people. The committee believes that regions must first respond to structural adjustment and recognise the need to create sustainable economic futures, which will ensure greater employment opportunities in non-metropolitan areas. In New South Wales, 73 per cent of the population live in the Sydney, Newcastle and Wollongong areas. Only 27 per cent live in country areas, and the gap is widening. Considering the rapid increase in population of some country coastal areas, the decline in other inland rural areas cannot be ignored.

A report released by the New South Wales Department of Planning in 1992 found that between 1971 and 1986 one-third of inland centres of New South Wales declined in population. A number of factors for the decline were mentioned in the report, including drought and the failure in the farming sector, but other issues were involved, such as lack of tertiary education facilities, employment opportunities, rationalisation of manufacturing firms and government services, termination of State Rail services, and reduction or closure of coalmines. Employment opportunities in regional New South Wales will always be a key attraction for regional development, and the establishment and development of business in rural areas has drawn the attention of all levels of government.

While unemployment rates are only one indicator of economic trend and the level of activity, it is instructive to note that a number of non-metropolitan local government areas in New South Wales have jobless rates at or near double the national average. I instance Walgett, with an unemployment rate of 22.9 per cent; Byron, 22 per cent; Great Lakes, 20.1 per cent; Eurobodalla, 19.2 per cent; Bellingen, 18.5 per cent; Kempsey, 18.5 per cent; and Cessnock, 17.9 per cent. Such figures reveal areas of economic decline, or in some cases the inability of regions with growing populations to provide sustainable employment and substantial differences in the capacity of regions to adjust to economic change. It was obvious to the committee, when it had the opportunity in 1991 to inquire into the effect of the

Government's decision to phase out payroll tax concessions for manufacturing firms operating outside the metropolitan area, that there were many other aspects of regional growth that needed to be considered.

The committee was confronted with a number of questions as outlined in this report. For example, are there problems and issues that are common to all non-metropolitan areas of the State? Should regional policy differentiate the more specific, localised problems of inland areas, coastal centres, regional cities, smaller towns, regions close to interstate borders, and very remote areas? Can the problem simply be reduced to Sydney versus the country? Is the problem simply one of perception - by individuals, companies and investors - or of objective conditions? To what extent are the problems in non-metropolitan New South Wales simply a reflection of problems endemic in the national economy - unemployment, recession and industry restructuring? Or are there particular economic problems that occur only outside the metropolitan area?

The committee believes that policy should focus on doing the things that can help regional economies to become more competitive. It is only through regional economic growth that sustainable jobs will be created. Job creation in regional areas is the primary goal of policy, and regional economic extension should be pursued principally because of the fact that it will reduce regional unemployment and create new careers for young people, many of whom have previously had to leave their home towns for

employment in the major cities. Increased employment is also the only way of increasing the economic viability of country towns and providing the services and amenities so important to city residents.

The role of small business in job creation is very important. Any policy designed to help create additional employment opportunity in regional areas must be focused on the small business sector. The committee notes that the Government has in place a range of programs aimed at assisting the small business sector to improve its level of competitiveness, including the joint Commonwealth-State national industry extension service program. Such programs focus on the business skills required to increase international competitiveness. At State level they are operated by the Office of Small Business of the Department of Business and Regional Development. The high mortality rate of small business is an issue of concern to the committee, and programs designed to improve the quality of business decision making are an important part of the regional policy process.

The businesses encouraged by Government must be in industries with a future and industries that have a good reason for being located where they are. They must be businesses that can expand, want to expand and can take full advantage of growth. They should be globally focused and innovative, as innovation is critical to business survival in the new economy of the 1990s. In contrast to the 1970s, which saw the birth of the growth centres at Albury-Wodonga and Bathurst-Orange at the direction of the Commonwealth Government, the 1980s saw the movement of government out of regional policies. The role of government was to encourage regions to set their own agendas and to pursue their own visions without central direction and with a lot less funding.

The new approach has received mixed reactions in non-metropolitan New South Wales. While many people regard the favouring of bottom-up approaches as a sensible recognition by government of its own limitations and of the superior capacity of regions to develop their own strategies, others clearly regard the new approach as an abdication by government of its policy responsibilities and an excuse for doing nothing. It seems that the regions want both autonomy and increased government support. The committee's position is that the role of government in regional development is limited to one of facilitation and supports the bottom-up approach. The latter is also in keeping with the committee's perception that there are certain regional problems that government should not try to solve and its view that the regions should, in the words of the Kelty task force, be empowered to act on their own account in a number of areas. In contrast to the 1970s approach of growth centres, the 1980s approach was towards the phasing out of general tax concessions in favour of more targeted grants and tax rebates according to certain conditions.

The main virtue of the Government's payroll tax concession scheme was that the market decided where firms would go in the country and any firm could qualify once certain basic criteria were met. Government made the initial rules but it did not select "the winners". However, the payroll tax concessions were unsuccessful in encouraging a large number of firms to relocate or to expand in the country. The Government concluded that it was not giving the taxpayer value for money. If the choice is between programs which provide value for money and those which simply reward firms for their non-metropolitan location, but which cost a lot of money, the committee clearly favours the former while retaining certain in-principle reservations about the extent to which governments should select winners.

The committee, in its travels around the State, had the opportunity to meet representatives of a number of regional development boards. There is no doubt that the boards are regarded as being successful in promoting their areas. There were some discussions regarding the boundaries of the regions, and in some districts there were suggestions that more appropriate boundaries should be arranged. It was obvious to the committee that some boards were much more successful than others and that this had a lot to do with leadership. There was also the question of funding and support staff. The funding for 1993-94 was $700,000, shared between the 11 boards. This has been increased to $1.34 million for the current financial year. The committee believes that the boards should be able to hire additional personnel as project and economic research officers in order to upgrade the capacity of the regions to implement strategies and to develop a much clearer picture of the economic strengths.

There has been strong support for the central economic zone as an innovative attempt by a number of regions to define and promote their competitive advantages. Similarly, other regions must be given the opportunity to broaden their economic horizons. The Commonwealth's approach is consistent with that of the committee in relation to funding for regional development through its regional best practice program, announced in the white paper. The emphasis is on assisting the regions to develop their economic capacity through "soft infrastructure" grants.

The committee has completed its third and concluding report, which will be tabled when Parliament returns in November. This report brings together the very important issues confronting regional business development in New South Wales and makes specific recommendations. There has been very little disagreement within the committee and the reference given to us has been extremely interesting and rewarding. I am sure the many hours spent by members of the committee and also by the committee staff in preparing these reports will be of great benefit to future planning and financial commitment by the Government.

The Hon. R. S. L. JONES [3.28]: I should like to congratulate my fellow committee members who helped produce this report, that is, the Hon. Patricia Forsythe, the Hon. Beryl Evans, the Hon. Jennifer Gardiner, the Hon. Dorothy Isaksen, the

Hon. J. H. Jobling, the Hon. I. M. Macdonald and the Hon. Dr. B. P. V. Pezzutti, and also the committee secretary, Michael Jerks, who has now moved on; the senior project officer, Paul Collits, who has also moved on; and the committee officer, Heather Crichton, who has also moved. They have gone to better things. The reports they have produced have received much acclaim and are sometimes used as reference material. Many of the reports have been reprinted.

The matter of regional development is finally on the agenda, I am very pleased to say. My minority comment in the volume 1 principles for setting policy, that is, achieving sustainable growth for regional business development in New South Wales, shows that I regard the city of Sydney as being full. In fact it is probably more than full. We are all suffering as a result of the overdevelopment of Sydney. I pointed out in my comment on page 53 of that report that the non-recoverable infrastructure costs to taxpayers of new blocks in Sydney are up to $70,000 for each new block developed. That infrastructure cost includes such items as roads, hospitals, schools, police stations, sewage treatment and run-off and, at some point, even the need to build a new dam for the extra water. It does not take into account the extra pollution costs or the extra congestion costs from the traffic volume created.

My minority comment in the report was that we needed to look at limiting growth in Sydney - the stick approach. The carrot approach would be what the Hon. Jennifer Gardiner has been talking about for some time - informing people of the benefits of relocating to the country. The Hon. Jennifer Gardiner has a good grasp of this matter. It would take me at least an hour to enumerate such benefits. I had the privilege of meeting Mr Robert Graham, the Managing Director of Sunbuster Sportswear Proprietary Limited, at one of the meetings. He sent me some interesting information on the costs of operating a business in the country as against the costs of operating a business in the city. He gave me a report from the Country Manufacturers Association of New South Wales on the advantages and disadvantages of manufacturing in the country.

A survey was conducted between June and September 1993 that covered 4,926 businesses with a payroll of $128 million and annual sales of $670 million. There is a significant cost disadvantage in operating in the country. In relation to transport there is a 1.09 per cent deleterious effect on sales compared with operating in the city; inventory, 0.04 per cent negative cost; communications, 0.2 per cent negative cost; employee recruitment and training, 0.04 per cent negative factor; utilities, 0.04 per cent negative factor; and specialist technical support, 0.38 per cent of sales.

This leads to a total cost disadvantage for country-based manufacturers of 1.8 per cent in comparison with city-based manufacturers. This means that country manufacturers are disadvantaged by 36 per cent, or 1.8 per cent of sales, compared with the recorded average profit of Sydney manufacturers. They are only two-thirds as profitable when operating in the country as they would be in the city. They have a lower return on capital investment, coupled with a reduced borrowing capacity. Country manufacturers have less to reinvest and country manufacturing is less attractive to outside investors.

Some years ago this House rejected legislation to remove payroll tax concessions for country businesses. Though the rejection of the legislation was successful, the Government found an alternative method of changing the formula. Payroll tax incentives for country industries are now far less than they were under the old scheme. It is more difficult to help country industries than it was when the scheme was going full blast. In the light of the clear disadvantage, there seems to be a definite need for a broad-based incentive scheme for businesses operating in the country. The best way to do that is to remove payroll tax for country businesses. That is the policy of the Australian Democrats. It has to be a long-term plan because payroll tax contributes a large amount to the budget. The policy of the Australian Democrats is to remove payroll tax altogether, but in the meantime it should be removed for country businesses to give them a better margin.

I had the privilege of going on a European tour with the Hon. Jennifer Gardiner and Michael Jerks. At first I was somewhat diffident about going on the tour, even though it was a marvellous experience, because I felt it was a significant expenditure of taxpayers' money. However, the Hon. Dr B. P. V. Pezzutti and others said I should go because I would add to the corporate knowledge, which is necessary to produce a good report. It was an interesting tour. It was extremely busy; it was not exactly a holiday. On one famous occasion I was left on the Strasbourg railway station with the bags of my two companions until about two o'clock in the morning. I had no idea at which hotel they would be staying in Brussels. A message was passed down the line. Someone boarded the train and asked the Hon. Jennifer Gardiner and Michael Jerks where they were staying. That person dashed off the train to inform people at the other end.

I arrived in Brussels the following morning, extremely tired after spending a hectic night locked in the baggage car for a few hours because I was thought to be some kind of pickpocket. I had boarded the two o'clock train from Strasbourg to Brussels. I was told I could not book a seat on the train even though I had had a ticket on the previous train. I was told to book when I boarded the train. When I asked about available seats I was told, "No, monsieur, this is France. We have no idea what is coming out of Italy". I had to try to find a sleeper. I walked up and down the carriages testing various doors in an

attempt to find a place to sleep. I knocked on one door and a woman was about to open it when I was pounced on by two guards. I had my Richard Jones MLC ticket and I tried to point out that I was a parliamentarian, but they could not understand my fractured French. They were convinced I was a

pickpocket. They dragged me along, against my protestations, and locked me in the baggage carriage. They locked both ends so I could not get out. I paced up and down through the night.

Eventually the conductor, who understood my fractured French, was almost apologetic. I found myself a berth for the last two hours of the journey. I was not very good the following day, when we had to attend meetings in Brussels. That was probably the worst moment of the tour. There were a few lighter moments, and the tour was most instructive. We learned a lot about the way industries are subsidised. Europe has extraordinary subsidies; governments prop up jobs all over regions in southern Italy, Ireland and particularly in northern Sweden. If we tried to do that, we would probably go broke very quickly. We arrived in the Emilia-Romagna region of Italy by train.

[*Time for debate expired*.]

APPROPRIATION BILL

PARLIAMENTARY APPROPRIATION BILL

BUSINESS FRANCHISE LICENCES (PETROLEUM PRODUCTS) AMENDMENT BILL

MOTOR VEHICLES TAXATION (AMENDMENT) BILL

ROAD IMPROVEMENT (SPECIAL FUNDING) AMENDMENT BILL

Bills received and read a first time.

Suspension of certain standing orders agreed to.

WILDERNESS DECLARATIONS

The Hon. R. S. L. JONES [3.46]: I move:

> That this House condemns the Liberal/National Government for its mishandling of wilderness declaration proposals and the Government's failure to protect the identified wilderness areas even inside National Parks.

There has been a fast outside the steps of Parliament House for many days now. I have lost count of just how many days people have been fasting, but the number is indicated on a plaque just outside this place.

The Hon. R. J. Webster: It certainly is a farce.

The Hon. R. S. L. JONES: I said a fast, not a farce. Those who have been on the fast, for 45 or 50 days now, have been losing weight gradually. Just a few steps from where we are now one can see evidence of the appropriateness of today's motion. Areas in this State have been destroyed and others are being destroyed. Those areas had or have trees of up to 1,500 years old: magnificent, ancient trees. Knocking those huge trees over, of which some honourable members approve, is akin to knocking down the Opera House to use its tiles for road base. The trees are being used in the most gross, low-value way. Many of them are being woodchipped. Trees being felled in our wilderness areas are virtually

useless for purposes other than woodchipping. Those trees, of course, provide habitat for the many species of birds and animals that live in them.

Today I was supposed to attend court at Dorrigo to answer a charge of entering an enclosed forest at Wild Cattle Creek. I am being represented by Tim Robinson. Documents that are being subpoenaed from State Forests and the National Parks and Wildlife Service will show that logging was illegal. The Government is not yet aware of that, apparently. I am sure that I shall get off the charge of entering an enclosed forest. The forest, in which logging would now be almost finished, was the home of gigantic ancient trees and was a known habitat for koalas, tiger quolls and parma wallabies. Two days after I was arrested I had in my arms a parma wallaby joey that had been taken to a wildlife carer because its mother had been killed. Parma wallabies were thought to be extinct in New South Wales about 20 years ago; it was not known that they still existed, yet their habitat is being devastated.

The trees in that area were so huge that the large logging trucks were able to carry only one tree at a time. If honourable members go outside the gates of Parliament House they will be able to assess the size of some of the trees knocked down. Some were growing at the time Jesus Christ was on earth and some at the time of Mohammed, long before this country was discovered by white man. For a very long time this country was populated by indigenous people. In the 40,000, 50,000 or 60,000 years that they were here they did nothing like the damage that white man has done. I wish we had learned from them before we destroyed this country. It is a crime that in this day and age we are still destroying magnificent old trees, few of which will be left.

By and large the areas set aside for national parks were not much good. Poorer areas were designated national parks and better areas were logged and cleared for dairying and cattle production. The last remaining areas of very large old trees on the flat are, by and large, being logged. Much of what is left is due for destruction. Of course, that is in violation of the national forests policy. Last week at an estimates committee meeting I asked the Premier about the national forests policy, which he signed in December 1992. The answer he gave was so curious I had to ask another question. The Premier said that the national forests policy was being abided by and that commitments under that policy had been fulfilled. I found that reply very curious, because there is absolutely no way that the Government's commitments have been fulfilled.

I wonder what advice the Premier has been receiving, and from whom he has been getting advice. If he believes that the Government has fulfilled its commitments under the national forests policy, he has been receiving wrong advice. The Premier would hope that the Government's commitments under the

national forests policy have been fulfilled. He may actually believe that they have been fulfilled. I do not think the Premier is a liar; I am absolutely certain he is not. He has been very honourable. It is my opinion that he has been seriously misled or he believes that what he signed would be implemented, although much further down the track. What has happened in the meantime is largely out of the Government's control and more in the control of State Forests. I have information here about how badly State Forests has been doing.

Unbeknown to the Premier, and possibly even the Minister for Land and Water Conservation, State Forests has been violating the national forests policy. Tomorrow the Minister is to release a statement on a matter that I raised in Parliament a short while ago. I shall not say exactly what that matter is, but the Minister knows what it is. I believe that both the Premier and the Minister for Land and Water Conservation have been seriously misled. They have made certain promises that have not been fulfilled. I do not believe it is through their actions that the promises have not been fulfilled; I believe that the Premier and the Minister for Land and Water Conservation have been let down very badly indeed.

If the Premier and the Minister for Land and Water Conservation, along with the Minister for Energy, and Minister for Local Government and Co-operatives, the Hon. J. F. Ryan and others who care very much about these matters were to see what had been done in Glenbog State Forest, for example, they

would be appalled. Michael Photios, the Minister for Multicultural and Ethnic Affairs, and Minister Assisting the Minister for Justice, who went to that region with me, would be appalled, too. We walked into the forest and saw some of the magnificent giants of trees. He did not want those trees logged. I know that the Minister for Energy, and Minister for Local Government and Co-operatives did not want them logged, either. There are areas that can be logged. People say that I am against jobs and against the use of trees. I am not, of course. That is absolute nonsense. I am about to put in my own woodlot plantation up north. It will be a mixture of cabinet timbers and hardwood. I am developing that plantation in conjunction with State Forests, and with advice from State Forests, but without any government subsidy. We are going to show how it can be done. It is possible to make a lot of money from planting a few acres to trees - much more than can be made from dairying up north these days.

The Hon. R. J. Webster: You will have to live a long time.

The Hon. R. S. L. JONES: The plantation is not for me, it is for my children and grandchildren; it is showing the way. I have been pushing the Minister for Land and Water Conservation to step up the plantation strategy to take the heat off our old forests, the wilderness forests, and to think long term so that people will have resource security. This is provided in legislation I proposed to the Minister at estimates committee time last year. He grabbed it with both hands. I hope the legislation will be enacted before too much longer. People will then be able to buy and sell plantations. Every year a plantation grows a little and some trees can be logged. Tallowwood trees can be cropped in as short a time as 10 years. One would not take the whole lot out; one would take thinnings as a first crop. There would be a first crop probably in 10 years, but possibly before that, and the last crop probably in 70 or 80 years, when we will be long gone. In the meantime, one can buy and sell plantations. Every year, as trees grow a little, a plantation is worth more. After three or four years, one would be able to graze cattle amongst the trees if one wanted to, which would effectively produce a double crop. I probably would not do that, but one certainly could do that. That is obviously the way to go.

Plantations are coming on stream and are ready to go, but a deepwater port at Eden is needed to assist their exports. Because the Americans have clamped down on the logging of their wilderness forests, more demand globally is placed on timber resources, which makes our pine resources much more viable. Those pine resources are ready to go. The jobs that will be lost temporarily - they are temporary jobs anyway, regrettably, because the forests have been so badly managed - can be picked up with the plantation strategy. I hope that landowners, particularly throughout coastal New South Wales, where plantations would be most appropriate, will get in touch with State Forests and involve themselves with the plantation strategy. The first ones in will get the best yields.

I would urge land-holders to do that as quickly as possible. It is all ready to go. The money is there. The help is there. They can have whatever involvement they want. They can make their land available and State Forests will do the rest. They can get involved in the actual planting if they want - there are various means of doing it. But that is the only future. We cannot continue to put pressure on the last of our old wilderness forests. When our grandchildren see what we have done, they will be totally appalled, as I am appalled today. People excuse it, saying these are jobs we have to have. But they are short-term jobs. The plantations in South America, as I said before, will be coming on stream next year.

I have been talking to Jim Tedder from the North Coast Environment Council, who has been talking to a number of owners of small Australian-owned mills who have been appalled at the mismanagement of the forests by State Forests. The timber mill owners are saying that logs that are going to the Tea Gardens woodchipper are their bread and butter. The logs that are being chipped could be used by the mills. I have heard exactly the same thing said about the south-east forests, that the low-job woodchipping industries are using a lot of timber that could be used by Australian-owned mills. The wood could be used for building houses and making furniture. I have a number of friends in the industry, three of whom own profitable mills. They are smart operators. They have seen logs going to the chippers that they could use in their businesses.

The chipping operators devastate the forests. They take everything. It is the most disgusting way to use our forests. Jim Tedder says that several people have told him that they used to have their private forests logged when bullocks were used to extract the logs, but they will not have bulldozers on their properties because of the damage they cause. One logger who had a quota said that he had given in his quota and bought private forests to log. Friends of mine have done exactly the same. The logger was so concerned about the lack of supervision by State Forests of the use of heavy equipment in the forests that he could see the end of the forests.

Another timber worker told Jim Tedder that he had been shocked at the damage done to surrounding bush and remaining trees by a mechanical harvester, and that he was not a greenie. Inspections of the logging sites reveal that most of the remaining trees have been so damaged by equipment that their future as good sawlogs is suspect, because fungi and disease could enter the trunk. Over the past 10 years the size of bulldozers has increased, with many of the contractors now using D8s or D7s, which are very large machines that need a lot of space to manoeuvre. Consequently such machines have a large impact. Jim Tedder has seen an area of 2,000 square metres flattened by a machine taking out just three logs. That is a most unintelligent way to log.

Years ago, when logging was done much more carefully and when it was genuinely sustainable - about a generation ago - the aim was to extract the best large sawlogs from an area. With small equipment and careful logging the resultant damage to the rest of the forest was minimal. Jim Tedder said that there are at least two methods that he has observed: one is for the sleeper cutter to be given an area and he spends several months taking out the trees that the commission has indicated. He will cut material other than sleepers, but he believes that it is not encouraged. Then a logging contractor will come in and he is told to take many of the remaining trees - this is an example of how the intensity of logging has increased - some of which are abandoned on the loading ramp for reasons unknown. What is left after the intensive logging is a mess: a few dead trees, a few twisted trees and a lot of debris on the ground.

In one operation a friend of Jim Tedder's offered to take in a small mill and salvage the timber from the heads, but he asked for an adjustment of the royalties. The Forestry Commission refused and, soon after, burned the whole area and the heads, which was a sheer waste. In one meeting with a forestry officer he explained that the forest was checked every 10 years and even every year to take out the trees that were ready. When questioned as to how that was done without causing heavy damage to the growing stock, he claimed it was possible. Yet three years later the policy, though denied, has obviously changed as an area shown to a committee of which Jim Tedder was a member was subject to integrated logging. The result was a clear-felling operation. I have a lot of information in this submission by Jim Tedder of the North Coast Environment Council. It is clear that the management of our forests leaves an awful lot to be desired.

I have talked about the need to preserve our wilderness areas, but there seems to be little understanding of that need, certainly by some members on the Government benches. However, I acknowledge that some enlightened members on the Government benches who have seen the results of logging acknowledge the value of wilderness. But there are others on the Government benches, like the Hon. L. D. W. Coleman, who, when I showed him a photograph of a 400-year-old tree, said, "That is an overmature tree. It should be logged". It was a gigantic tree. There are gross rednecks on the Government benches who have no understanding, yet other Government members are extremely sensitive. The coalition is hugely divided.

Last night on the television we heard the Premier say, "Who is Gerry Peacocke? He is not a member of my party", he was so ashamed of him, and I do not blame him. Some Government members are bringing down the Government. If the Premier had had his way, and if some of the more enlightened

members of the Liberal Party had had their way, and possibly even one or two enlightened National Party members - the Hon. R. T. M. Bull and the Hon. D. J. Gay, no doubt - the original wilderness declarations would have been declared. The Government would not be in the position it is in today in the polls. It is ironic that it is the actions of the rednecks, who made the Government cut back and the Premier withdraw his Christmas present by jumping up and down and complaining about the wilderness declarations - he became an Indian giver by force of redneck pressure - that will probably bring down the Government.

They have been partially instrumental in bringing down their own Government, which will lead to much greater nominations in a few months time. I was appalled at the attack the other day on the Minister for the Environment. I phoned his office and said, "There is probably nothing I can do to help, but I wanted to express how appalled I was at the attack by Peter Cochran and others". It is such bad politics, apart from being completely unjustified. The Hon. Chris Hartcher is trying to do a difficult job under difficult circumstances. He does not need an attack like that from people who have little understanding of what the environment is all about.

There is a gigantic division in the coalition. If the coalition gets back in five months time I hope that those who are sensitive to these issues will come to the fore. I have a suspicion that they might. I think there might be a few changes in six months time if this Government gets back in. I have had discussions with one or two Government members to that effect. We might well see a few good changes, particularly in wilderness areas, and more nominations of wilderness areas in a little more than six months time, in spite of the rednecks. By that time they will not be in the ascendant and will be irrelevant to the process. Whichever side gets in, I believe there will be an improvement.

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The Hon. J. F. RYAN [4.00]: It is a pleasure to be able to take part in this debate as the first speaker for the Government and to have an opportunity to defend the position the Government has taken in relation to wilderness in recent times. I first draw attention to a matter concerning Mr Tom McLoughlin, one of the prominent members of the Wilderness Society of New South Wales. The Hon. R. S. L. Jones has referred quite candidly to the difficulties that sometimes exist in the coalition party room in trying to advance particular causes on behalf of the environment. One reason for that difficulty, and it is a perception within the coalition, is that many environmental groups, such as the Wilderness Society, the Colong Foundation and so on, would never support a coalition government no matter how green it might be. That is an enormous problem for people like me who, as the Hon. R. S. L. Jones is wont to suggest, have been trying to advocate green policies - with enormous success, as I will explain shortly. That is an enormous difficulty in that there is a legitimate perception within the coalition party room that green groups are the mortal enemies of any coalition government regardless of what such a government does.

In the past couple of days Mr Tom McLoughlin has done something that serves to reinforce that perception within the parties I represent. It would appear that Mr McLoughlin has been doing research for the Australian Labor Party, research which has nothing to do with green issues. He faxed some material to Bob Carr's office, but it did not wind up in Mr Carr's office, and I have had a copy handed to me. The facsimile head sheet is very revealing. It is clearly the facsimile sheet of the Wilderness Society, as identified by its address and the logo on the front. Some of what is written on the front is very interesting. It has been addressed to Mr Allan Hansell, in Bob Carr's office, with a copy to Pam Allan. It is from Tom McLoughlin and it says: "Re Morris/open slather!" and continues with some notes: "This arrived yesterday or today anonymously. I have no reason to doubt its authenticity. Yours sincerely Tom McLoughlin (solicitor)". The material attached to this facsimile has been used to launch an attack on the honourable member for Blue Mountains during question time in another place today. That has nothing to do with the general issue of pursuing the environment. It reveals Tom McLoughlin as a person who is prepared to lend every level of support to the Australian Labor Party.

The Hon. Ann Symonds: Who is he?

The Hon. J. F. RYAN: I have met Mr McLoughlin, the chief representative of the Wilderness Society, on many occasions. Many members will have documentation on their desks or in their files from the Wilderness Society with Mr McLoughlin's name on it. He has been caught out sending these faxes on Wilderness Society letterhead and using Wilderness Society equipment to provoke political attacks. I am concerned that the leader of an environmental group which collects funds from the public for the purposes of environmental protection should use that money to support a political party. The Wilderness Society has a proud history of lobbying for nature conservation. People who throw their money into the buckets of the Wilderness Society collectors, who frequently appear in our streets dressed as koalas, should be aware that their money may be used for matters other than nature conservation. It would be unfortunate for people to be put off supporting environment groups. Many of these groups do a great public service in their support for environmental issues. Mr McLoughlin, however, should be informing people that any money donated to his society is going to be used to assist him to support the Australian Labor Party. I regret that very much.

This sort of problem continues. In recent months there have been headlines such as "Greens to hit parties in the elections". The detail next to that headline is how people such as Jeff Angel, from the Total Environment Centre, and Dr Judy Messer from the Nature Conservation Council, are going to attack the coalition in its marginal seats in the next State election because they believe we have not been green enough. I have no objection to conservation groups raising issues on the environment, but it seems that the Australian Labor Party has had a certain litany of matters in the last few days that are worthy of attack. We have not seen the same level of activity against the Australian Labor Party, yet I would have thought those issues would have equally concerned organisations such as the Nature Conservation Council, the Wilderness Society and the Total Environment Centre. Consider the recent decision made at the ALP conference to allow mining in national parks. Consider Bob Carr's recent comments, which I outlined in my speech on the budget yesterday, flatly refusing to allow creation of a Gardens of Stone national park. As I pointed out yesterday the National Party candidate for Bathurst supports the creation of that national park. For all that can be said about alleged rednecks in the National Party its candidate for Bathurst is enormously enlightened in trying to preserve one of New South Wales' great treasures. He will not be trying to preserve it at the expense of jobs.

The Hon. R. J. Webster: There is one bloke who does not want the national park, and that is Mick Clough.

The Hon. J. F. RYAN: Indeed. Speaking of rednecks, there is the odd redneck on the opposite side of the Chamber. The reason Bob Carr has come out against the Gardens of Stone national park is that he is being advised by the current candidate for Bathurst, Mick Clough. I put the wood on the green groups -

The Hon. Ann Symonds: Is that old growth wood?

The Hon. J. F. RYAN: It is going to be softwood, plantation forest, of course. I put this challenge to the green groups: are they prepared to go into the seat of Bathurst and campaign for the person who is going to defend a national park in that electorate, or are they going to blindly follow the

Australian Labor Party? What about the suggestion by the member for Londonderry last week that there was room in New South Wales for a couple of toxic waste incinerators? I hope the Nature Conservation Council is active in his seat supporting the Liberal Party campaign against toxic waste incinerators that he suggests. What about the Prime Minister's recent outburst against green groups, in which he referred to them in most unflattering terms? I have yet to see the green groups rise in their usual high dudgeon to suggest the Labor Party should be campaigned against at any future Federal election to the advantage of the coalition.

The difficulty faced by many on this side of the House is that too frequently green groups join the battle with the Labor Party but the coalition gets so little credit for the effort of the Government. The

Government deserves as much credit for preservation of wilderness areas. The budget has provided an increased allocation for the National Parks and Wildlife Service of about an extra $5 million for weed control in national parks, many of which will have wilderness declarations added to them. An extra $6.8 million will be spent on fire management within national parks, and doubtless some of that money will be used to correct fire trails that are in the wrong places, to revegetate and construct some so that our national parks are adequately preserved, which the green groups have wanted for some time.

Over the next five years $20 million will be spent on extending our national park network by providing that land that is adjacent to a national park and is zoned for conservation and not able to be sold by its owners can be bought by the Government and added to the national park estate. The green groups frequently have criticism of this Government, but all too frequently that is unjustified. They fail to separate, if I may use the expression, the wood from the trees. They talk about where the lines will go, where wilderness declarations might be made, and which national parks they will focus on. But they ignore the fact that the Government is doing an audit of our natural resources so that they can be protected in a predictable way in the future and that the Government has doubled the budget of the National Parks and Wildlife Service. Indeed, it was a coalition government that created the service in the first place.

This Government has made the largest declaration of wilderness yet, under the former Government's Wilderness Act, which of course we supported at the time. This Government has green credentials, and is well worthy of support from green groups, but we rarely attract their support and they rarely attack the Opposition when it is wrong. We need groups within our community that are vigilant in supporting green issues, but if they want to be credible they have to be even-handed and unbiased. The Government's announcement of its final determination and gazettal of new wilderness areas represents the culmination of an intensive and comprehensive process of public consultation with interest groups, individuals and local communities. It is a sad day when the Parliament is used to condemn the Government for undertaking extensive consultation whose sole pupose was to become absolutely aware of the views of the community. That is what a democratically elected government is supposed to do - represent the views of the people. The purpose of consultation on wilderness nominations has been to balance the need to protect our remaining wilderness areas for this and future generations with the need to give recognition to legitimate existing interests and to ensure continued reasonable access to areas already well protected within national parks and nature reserves.

The public consultation process originally commenced with a call for public submissions on completed wilderness assessment reports prepared by the National Parks and Wildlife Service for areas nominated for consideration as wilderness under the public nomination provisions of the Wilderness Act. This was a first. The public exhibition process gave effect to a Cabinet decision of March 1992 instituted by this Government. That decision required that all completed wilderness nomination assessment reports be placed on exhibition for a minimum of four months. The Leader of the Opposition, when he was Minister responsible for the environment, introduced the Wilderness Act, which did not allow for any kind of public consultation whatsoever. As an indication of the high level of public involvement in the wilderness assessment process, at the early stage more than 11,000 submissions were received on the assessment reports for the Deua, Goodradigbee, Guy Fawkes, Macleay Gorges, Nadgee and Washpool nominations. At that time public submissions reflected a diversion of opinion on whether, and how, to proceed with wilderness declarations.

The Hon. D. J. Gay: You did not tell the House about Milo Dunphy bagging us and telling the conservation movement to vote against us, even before any of the changes to the wilderness areas were declared.

The Hon. J. F. RYAN: The honourable member reminds us of something fairly important - that Milo Dunphy urged people to vote against this Government before anything was done about determining where the wilderness boundaries would be. How is that for shooting us before we have even had a chance to speak for ourselves? There was a great deal of public interest in the process of considering the wilderness nominations. The intensity of that representation to the Government suggested that it

would be neceesary to broaden and intensify the public consultation process in the interests of ensuring that all views were taken into account in the Government's deliberations.

The Cabinet gave preliminary consideration to the proposed wilderness areas last Christmas. Cabinet's decision at that time made clear the Government's ongoing commitment to the protection of wilderness in this State. The suggested boundaries for wilderness areas then announced by Cabinet took into account the results of the extensive round of public consultation already undertaken by the National

Parks and Wildlife Service, and represented an initial whole-of-government position on how to accommodate all interests in the Government's deliberations on wilderness. It did not end there. It was obvious that there was a need for greater public consultation, and that continued. Time will not permit me to detail that public consultation, but if this matter comes before the House on another occasion I will be able to give that detail.

The PRESIDENT: Order! It being 4.15 p.m., pursuant to sessional orders, debate is interrupted to permit the Minister to move the adjournment of the House, if he so wishes.

The Hon. E. P. Pickering: No thank you, Mr President.

INDEPENDENT COMMISSION AGAINST CORRUPTION (AMENDMENT) BILL

Bill received and read a first time.

Suspension of certain standing orders agreed to.

Second Reading

The Hon. E. P. PICKERING (Minister for Energy, and Minister for Local Government and Co-operatives) [4.15]: I move:

That this bill be now read a second time.

I seek leave to have my second reading speech incorporated in *Hansard*.

Leave granted.

The object of this bill is to amend the Independent Commission Against Corruption Act 1988 to expand the jurisdiction of the Independent Commission Against Corruption in relation to Ministers of the Crown and members of Parliament. Broadly speaking, the amendment would mean that the ICAC would be able to investigate an allegation that a Minister or member of Parliament had breached a code of conduct applicable to that Minister or member, if the alleged breach were potentially of a corrupt nature. Following an investigation, the ICAC would be able to make a finding of corrupt conduct against the Minister or member of Parliament, on the basis of a substantial breach of the code.

Following the decision of the Court of Appeal in *Greiner v Independent Commission Against Corruption* concerns were expressed that the Independent Commission Against Corruption Act operated in a manner that resulted in different standards of conduct being applied to different classes of public official. In particular, there was the perception that Ministers of the Crown were beyond the reach of the ICAC. This difficulty arises because of the definition of corrupt conduct contained in the Independent Commission Against Corruption Act. This is a complex definition. First, section 8 of the Act sets out four broad categories of conduct that can constitute corrupt conduct. For example, conduct of a public official that involves a dishonest or partial exercise of official functions or a breach

of public trust is corrupt conduct.

In addition, section 8 sets out specific examples of corrupt conduct. However, the wide ambit of corrupt conduct under section 8 is cut back by section 9, which provides that conduct can be corrupt conduct only if it involves a criminal offence, a disciplinary offence or reasonable grounds for dismissing a public official. Before the Independent Commission Against Corruption can investigate a matter there must be circumstances or allegations that suggest that a person may have engaged in conduct as defined by both sections 8 and 9. Clearly, Ministers and members of Parliament can be investigated by the ICAC when there are allegations that suggest that they may have been involved in criminal activity. However, the Court of Appeal decision showed that the other bases for corrupt conduct, namely, disciplinary offences and reasonable grounds for dismissal, could have very little practical operation in relation to Ministers and members of Parliament.

With the aim of addressing this so-called discriminatory operation of section 9, the joint parliamentary Committee on the Independent Commission Against Corruption recommended that section 9 be repealed. The Government has carefully considered this recommendation and examined its ramifications for the operation of the ICAC. It has reached the view that its repeal would have unacceptable consequences. However, the Government acknowledges that the effect of section 9 is that Ministers and members of Parliament may be less amenable to the jurisdiction of the ICAC than, say, public servants. Moreover, in similar circumstances it may be that a public servant but not a Minister or member of Parliament could be found corrupt. The Government does not accept that exactly the same standards need to be applied to every class of public official. In particular, there are important distinctions to be drawn between elected and non-elected officials based on the different manner in which they are accountable to the public.

The Government nevertheless accepts that, for the purposes of the Independent Commission Against Corruption Act at least, a set of standards more analogous to that applying to other public officers should apply to Ministers and members of Parliament. Public servants and other public sector employees are subject to disciplinary provisions and codes. A breach of such provisions and codes may attract the jurisdiction of the Independent Commission Against Corruption and result in a finding of corrupt conduct. It is proposed, therefore, to put members of Parliament and Ministers on a similar footing to public sector employees by providing that a breach of a code of conduct applicable to them can attract the ICAC's jurisdiction and result in a finding of corrupt conduct when it is found that a substantial breach has occurred.

The amendments make it effectively the responsibility of each House to develop its own code to regulate the conduct of its members. It is not for the Executive Government to impose a code on members of the Parliament. That should be a matter for the members themselves. I note that the Committee on the Independent Commission Against Corruption has done considerable work already in relation to codes of conduct. Honourable members are probably aware that Ministers of this Government have voluntarily adopted a code of conduct that requires them to observe certain standards of conduct and disclose interests when there are potential conflicts. However, for the purposes of the Independent Commission Against Corruption Act, it is proposed that a ministerial code be adopted by regulation. Thus, the code will be public and subject to the scrutiny of this Parliament and disallowance by either House.

The Government considers that the amendments made by the bill will give effect to the objectives of the committee's recommendation for the repeal of section 9 whilst ensuring that the ICAC continues to be concerned only with serious matters of corruption. The repeal of section 9 would expand the jurisdiction of the ICAC and blur the lines between the respective jurisdictions of the ICAC, the Ombudsman and the Auditor-General. The ICAC was established to deal with serious allegations of official corruption. That role should be maintained, and its resources should not be wasted on trivial matters. Moreover, it needs also to be borne in mind that once the ICAC has jurisdiction it has extraordinary coercive powers. For example, it may issue search warrants, it may compel people to

give evidence that is self-incriminatory, and it may issue warrants for the arrest of persons.

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These powers may be exercised not just in relation to public officials but against private citizens. The powers were not conferred lightly on the ICAC. It is the Government's view that they should not be triggered merely because allegations have been made that there is conduct that may fall within section 8 of the Act. That could be very much a matter of subjective judgment. A serious test, such as that provided for by section 9 of the Act and requiring the application of objective standards, should be retained. The bill before the House demonstrates the Government's continuing commitment to a strong and effective anticorruption body. It should remove the perception that Ministers and members of Parliament are beyond the reach of the Independent Commission Against Corruption. I commend the bill to the House.

The Hon. J. W. SHAW [4.16]: This bill arose from the gap in the Independent Commission Against Corruption legislation uncovered by the Greiner case. In that case the Court of Appeal made it clear that the jurisdiction of the ICAC was defective or impaired so far as Ministers of the Crown and members of Parliament are concerned. Although the ICAC can effectively deal with allegations of criminal conduct against Ministers and members of Parliament, the Court of Appeal exposed that the ICAC has a real problem in dealing with members of Parliament or Ministers with respect to non-criminal matters. Essentially, that is because of the lack of definition of the criterion whereby members of Parliament or Ministers can be dismissed from office.

Generally with public servants it is clear that serious misconduct will justify dismissal from office, but with Ministers and members of Parliament there is a difficulty about the legal definition of dismissal and therefore there is a difficulty in applying the test of corrupt conduct within the context of the ICAC Act. This problem has been exposed for a considerable period of time, and clearly the Government has been contemplating it. We do not regard the Government's attempt as satisfactory and will explain why. We propose to move an amendment to this bill, which we think will lead to a more coherent and workable relationship between, on the one hand, the Parliament maintaining its fundamental constitutional responsibilities with regard to Ministers and members and, on the other hand, the ICAC retaining its essential function as an investigatory or fact-finding body.

The PRESIDENT: Order! The Hon. J. W. Shaw has the call.

The Hon. J. W. SHAW: I will try to avoid responding to interjections from Government members, which lower the standards of the House. They are absolutely pathetic. The bill expands the jurisdiction of the Independent Commission Against Corruption and seeks to grapple with the problem exposed in the Greiner case. Obviously, that case showed that there was a problem with the bill from the very start, because former Premier Greiner said in his second reading speech that the intention of the bill was to deal, within the jurisdiction of the ICAC, with Ministers and members of Parliament; it was just that that intention was not actually achieved by the context of the bill.

I now turn to address what the Opposition sees as the problems with the bill as significantly amended in the Legislative Assembly. First of all we in the Opposition have a difficulty with the notion of codes of conduct. Of course, at the moment we do not have such codes of conduct. The bill seeks to provide a mechanism to formulate the codes of conduct. But, without seeing those codes of conduct or knowing their content, it is difficult to know how the bill will work in practice, whether it creates a balanced and sensible regime to supervise the conduct of Ministers or members of Parliament, or whether it is unsatisfactory or flawed. The Opposition would have thought it appropriate to have codes of conduct before enacting the bill, so that the Parliament would know how the bill will work. It may be that the bill does not address the problem it purports to solve.

The PRESIDENT: Order! Those in my gallery will be quiet or they will leave the gallery.

The Hon. J. W. SHAW: Even with a code of conduct, it would be possible for Ministers and members of Parliament to remain outside the jurisdiction of the ICAC for behaviour which would bring a public servant within the jurisdiction. This depends entirely on the content of the code. Nothing in the bill prevents a ministerial code of conduct being so weak as to permit behaviour which would amount to a disciplinary offence for a public servant. This means that it will still be possible for Ministers and members of Parliament to be less susceptible to the jurisdiction of the ICAC than are public servants in relation to similar conduct; that is, the bill will have failed to solve the problem.

I say something further about the text of the bill as amended in the lower House. The scheme now in the bill is fairly complex. I assume that honourable members will have had at least some opportunity, however brief, to look at that scheme. In effect, the bill seeks to create a reasonable person test. It provides that the Independent Commission Against Corruption will have power to deem a member of Parliament guilty of corrupt conduct if it is conduct that would cause a reasonable person to believe that the conduct would bring the integrity of the office concerned or of Parliament into serious disrepute.

A number of problems arise from that formulation. First, the bill gives the ICAC enormous power to make value judgments, purportedly on the basis of what a reasonable person would believe. Second, the provision is conducive to litigation and challenges in the superior courts. It is obvious that if the ICAC purports to reach a conclusion about what a reasonable person might believe, that is challengeable in the Court of Appeal and ultimately, by special leave, in the High Court of Australia. I think it is desirable to have an ICAC system that works without such litigation and such challenges to its day-to-day operation. I suggest to the House that the formulation contained in the bill actually invites or encourages legal challenges of that kind because of the vagueness and indecisiveness of the tests contained in the bill.

Another part of the bill in effect provides that the ICAC cannot include in its report a finding or opinion that a specified person has, by engaging in conduct of the relevant kind, engaged in corrupt conduct unless the commission is satisfied that the conduct could also constitute or involve a contravention of a law, apart from this Act, and the commission identifies that law in the report. The question is whether law in that context refers only to statute law or to common law. It probably refers to both. But what it involves the ICAC in doing is making a decision as to whether particular conduct could be a breach of a law. Obviously, that too is challengeable.

Obviously, a person who is accused of corrupt conduct or found guilty of corrupt conduct by the ICAC could challenge such an accusation or finding through the courts. I think honourable members will find that the Opposition's alternative proposition avoids that sort of difficulty. I would adhere to the idea that the Court of Appeal should supervise subordinate tribunals in relation to legal questions. But the Minister will see that the Opposition proposal avoids that sort of legalism. It is a very attractive alternative proposition, and I am about to explain it.

Having indicated what we conceive to be defects in the Government's proposal, I now outline the Opposition's alternative proposition - an alternative proposition with a legitimate background, and a background found in Mr Temby's second report into the Metherell resignation. In other words, the Opposition is adopting the ICAC's own recommendation in this respect. Whatever honourable members might think of various decisions made by Mr Temby, it is obvious that he has given great thought and consideration to these matters, including how the ICAC should operate with respect to members of Parliament. We in the Opposition would say that the Government's bill cannot be supported as it stands and that what we put forward is a constructive alternative.

We propose that the ICAC be empowered to investigate the conduct of Ministers and members of Parliament. However, with respect to those holders of constitutional offices, the ICAC should not have power to make findings of corrupt conduct but only the power to make findings of fact. It would be for the

Parliament to decide whether the facts found by the ICAC justified dismissal from the ministry or from the Parliament. This would prevent the ICAC from having to take over the constitutional functions of the Parliament. The ICAC's role in making findings of fact would assist in the depoliticisation of allegations about members of Parliament and Ministers. It would ensure an independent fact-finding body reporting swiftly to Parliament, but it would also ensure that Parliament is the arena to which Ministers and members of Parliament are ultimately responsible.

Our alternative has the following advantages. First, it brings Ministers and members of Parliament clearly within the ICAC's jurisdiction. Second, it avoids the overlitigious system which the Government cobbled together in the Legislative Assembly. Third, it does not rely on the cumbersome process of developing a code of conduct, a process which under the present Government may never occur. Fourth, the Opposition proposal was specifically recommended by the former ICAC commissioner, Mr Temby, in his second report on the Metherell affair in September 1992. Fifth, it is simple to apply and retains the existing constitutional functions of Parliament. Finally, it retains the right of the ICAC to make findings of fact and recommendations and to speak frankly in relation to conduct which it views seriously.

Mr Temby's argument is, as I have said, contained in his Second Report of the Independent Commission Against Corruption of the Investigation into the Metherell Resignation and Appointment, published in September 1992. In it Mr Temby stresses that under the existing Act the ICAC is obliged to determined whether corrupt conduct has occurred. He suggests that we should "change the ICAC Act so as to make the prime function of the Commission, when investigating matters, to find facts rather than try to fit conduct into a particular definition". It is the fitting of factual findings into a concept or definition that causes legal difficulties. It is the finding of facts that really is the basic role of this specialised tribunal, a role which it can perform effectively. We would say that Mr Temby was quite correct when he said in his report:

> It seems axiomatic that the ICAC Act should apply the same standards equally to all in the public sector . . . Nobody can expect general acceptance of the commission to continue if the "great and powerful" are beyond its reach.

He also says that there are sound reasons why members of Parliament should be treated differently in a procedural sense. Mr Temby said:

> So far as Members of Parliament are concerned, they again must be free from Executive control, and the notion of sovereignty of Parliament requires that that institution have control of its own Members.

I suggest to the Minister, the Hon. E. P. Pickering, that that is the important passage in the Temby report. And that sounds like the great constitutional theorist, Professor Deithe. It is those basic doctrines we ought to bear in mind when we consider the relationship between the ICAC as a statutory tribunal and this Parliament as a sovereign legislature exercising the will of the people. Mr Temby's second report into Metherell, page 18, I will supply to the Minister. It is very important. The Opposition's amendments reflect the Temby recommendations. They are not something we have just concocted and cobbled together, as I suggest the Government's proposals were cobbled together in haste during proceedings in the Legislative Assembly.

Mr Temby also suggested that the commission should be entitled to investigate everybody in the public sector from the Governor down, but with respect to those who hold constitutional offices the commission should not have power beyond reporting its findings and recommendations to Parliament. This is a simple and elegant solution and one which the

Opposition embraces; one that gives clear power to the ICAC which it presently lacks under this Government's legislation. Under this scheme it lacks the power to deal with members of Parliament and Ministers. It is obviously defective. It has been defective for years and the Government has done

nothing about it. Under the Government's scheme it will remain defective. Under the Opposition's scheme there will be a clear simple fact-finding role for the ICAC with respect to members and Ministers. It does not have that now, that is the problem.

[*Interruption*]

The honourable member has not read the Greiner case. He does not know what he is talking about. This is a constant problem with Government backbenchers. They spout on and really do not have a clue what they are dealing with. The foreshadowed amendment will do a number of things. First, as I have explained, it will give that clear fact-finding role to the ICAC. Second, and importantly, it will actually require the Parliament to consider and debate the ICAC report within seven sitting days. There will be that obligation. The ICAC report just cannot be left on the shelf; it will have to be dealt with by the Parliament. The only other observation I want to make is that, obviously, ICAC would have power not only to deal with references from the Government or the Parliament but also to act on its own initiative. The ICAC would be able to act on its own motion. If the Government declined to refer a matter concerning a member or a Minister to it, it could act nevertheless, find the facts, investigate the matter and report to the Parliament. This Parliament would still retain its historical legitimate constitutional role of dealing with Ministers and members. We will not vote against the second reading of this bill but in the Committee stage we will move the amendment I foreshadowed.

The Hon. I. M. MACDONALD [4.32]: I address the amendment proposed by the Government. Even from the perspective of Government members, this amendment to the Independent Commission Against Corruption Act is a very unsatisfactory proposal. It is unsatisfactory because, in a desperate endeavour to get Mr Justice O'Keefe up as the ICAC commissioner, the Government has a number of proposals in this amendment that are clearly contrary to all levels of common justice or of the common law approach to matters legal, and against the basic tenets of its own parliamentary committee on the ICAC. I shall identify the approach taken by many Government members by quoting sections of the discussion paper on pecuniary interest provisions for members of Parliament and senior executives and the code of ethics for members of Parliament, released in April 1994 by the committee on the ICAC. In this discussion paper there is considerable comment about the concept of a code of conduct. Proposed new clause 3 in the document put before us by the Government clearly establishes the need for a code of conduct. The procedure appears in later amendments that show how this code of conduct is to be both devised and implemented. A code of conduct is central to the Government's proposition.

The Hon. S. B. Mutch in his excellent letter to the committee put very clearly what he thought about the concept of a code of conduct for members of Parliament. Having had a lot of discussions with members of Parliament over the last two or three years in relation to this matter, I am aware that there is a lot of sympathy for the position adopted by the Hon. S. B. Mutch and by other honourable members opposite, including the Hon. Dr. B. P. V. Pezzutti. I wish to place on the record of this Parliament the comments made by the Hon. S. B. Mutch. In a letter to the Chairman of the Committee on the Independent Commission Against Corruption, dated 12 February 1993, he stated:

> Dear Mr Kerr
>
> . . .
>
> It is my opinion that a code of conduct for parliamentarians is inappropriate in a system of representative democracy. It would inevitably result in an erosion of the fundamental principle that an elected member of parliament should feel absolutely free to pursue the interests of constituents in whatever manner he or she thinks fit, within the constraints of the law.

The Hon. S. B. Mutch, at the beginning of his letter, placed in the context of the law this part of the report. Clearly, the law already covers most of the elements that could pertain to members of Parliament. We do not need this particular amendment. According to the Hon. S. B. Mutch, and I agree with what he

stated:

> Codes of conduct are increasingly being used as an attempt to provide guidelines within which a category of people are expected to perform their duties or obligations. They are a fashionable response to concerns that people in many responsible positions breach their obligations because they are ignorant of them. They are meant to serve an educative function and as a disciplinary tool.
>
> I support this endeavour in its proper place. Therefore, in the area of public administration it may be appropriate for a government to set out the standards under which it expects government employees to operate. It may also be appropriate for a government (indirectly through parliament) to require members of Cabinet, the executive arm of government, to abide by designated standards . . .
>
> However, members of parliament are in a unique position which is vital to the democratic process. While parliament may act under unusual circumstances to sanction the activities of individual members, the general rule must be that members are responsible ultimately to their constituents, and it is the people who should determine their fate at the ballot box. By its very nature any code of conduct for MPs would interfere with the basic relationship between an elected representative and his or her constituents.

What the Hon. S. B. Mutch is making clear from the outset of this statement is that a series of activities which are clearly illegal under the framework of the law of today - bribery, secret commissions, what have you - are clearly offences which can be treated within the context of the process of the law today. However, a code of conduct would bring within the framework and ambit of the ICAC a series of activities that are not necessarily illegal but which are matters whose appropriateness for a member of Parliament can be subject to wide interpretation. This is the central concept espoused by the Hon. S. B. Mutch. And it is central to why this particular bill is both impractical and wrong. This bill will compromise the operation of this House and the operation of the Parliament.

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A simple amendment can be moved that will allow a commissioner to have some investigative role but it will be for the Parliament itself to determine whether the activity, other than unlawful activity, is appropriate or not. This is the essential argument that the Minister for Energy, and Minister for Local Government and Co-operatives, and members of his party in the other House have missed - that the law covers the activity of unlawful or criminal behaviour, and the Independent Commission Against Corruption should not have the power to go beyond that to investigate matters which are not criminal. If the code of conduct for Ministers of the Crown released in March 1988 to which the Minister for Energy, and Minister for Local Government and Co-operatives would subscribe were enacted, it would be brought within the ambit of investigation by the Independent Commission Against Corruption. Section 7 of the Act reveals the profound difficulties that will occur if the amendment is carried. Clause 7.1 of the proposed code of conduct for Ministers, dealing with post-separation employment, reads:

> A Minister shall not, within 2 years of retirement or resignation, accept offers of employment from, or become otherwise engaged in the internal management of the affairs of, persons, companies or other bodies (any of which is here referred to as "a relevant organisation") -
>
> (a) which are in a contractual relationship with the government;
>
> (b) which are in receipt of subsidies or their equivalent from the government;
>
> (c) in which the government is a shareholder;
>
> (d) which are in receipt from the government of loans, guarantees or other forms of capital assistance; or

(e) with which the services, or departments, or branches of government are, as a matter of course, in a special relationship

without the express approval of the Premier.

If this bill is passed and a code of conduct is introduced, former Premier Greiner could face a problem. After leaving office he took up a position with a body that has relationships under the code's clause 71(a), (b), and (d). He became a director of the M5 freeway company. He took up that employment with the company within two years of leaving office. His relationship with the M5 organisation would immediately be subject to an ICAC investigation because it would break clause 7 of the ministerial code of conduct. The honourable member is suggesting that when this code of conduct is set up -

The PRESIDENT: Order! This debate has all the potential to become heated. I will not allow it to get out of hand.

The Hon. I. M. MACDONALD: The question of retrospectivity was covered in clause 8 of the original bill, which stated that this bill would not start operating at the date of proclamation but would relate back to any point of time in history. The Minister does not agree, but he has not read the bill. He is suggesting that the current code of conduct that ministers are meant to adhere to would not be approved by the committee of 12 or 14 that is proposed in the second section of the amending bill. He is saying that perhaps they would not have the post-separation employment clause. The clause was put forward by the Government, from March 1988, as a code of conduct for Ministers.

Is the Minister suggesting that this would not be approved by a committee as the code of conduct? Is he is suggesting that the committee would jettison this code of conduct once the operation of the amendment has taken effect? The Minister is endeavouring to snow members on his side of the House about the operation of this code. Because the bill in clause 8 provides for retrospectivity before the date of proclamation the code can be judged by the ICAC. As a consequence the activities, for instance, of the former Premier in taking up employment with a number of organisations which have close business relationships with the Government would then be subject to an inquiry under clause 8 and under the amendment to clause 3, which reads:

(d) in the case of conduct of a Minister of the Crown . . . - a substantial breach of the applicable code of conduct.

Clause 8(3) of the current ICAC Act states:

Conduct may amount to corrupt conduct under this section even though it occurred before the commencement of this subsection and it does not matter that some or all of the effects or other ingredients necessary to establish such corrupt conduct occurred before that commencement and that any person or persons involved are no longer public officials.

The objections of the Hon. Dr B. P. V. Pezzutti to my statements about how this code will relate back to the activities of former Premier Greiner following his departure from office make it clear that it comes within the ambit of the Act. I have no doubt that the Minister for Energy, and Minister for Local Government and Co-operatives would be reluctant to oppose a ministerial code of conduct that would delete any post-separation employment. The code of conduct as it stands is subject to the mastery of this House. This House will determine whether a member has breached any form of conduct. That is occurring in the other Chamber this afternoon, and it has done so before. Rick Mochalski was drummed out of this Parliament seven years ago on the basis that he had been charged with offences under the Corporate Affairs Act. Those charges were later thrown out. He was hanged well and truly before there was any version of a trial. We must be careful about putting up propositions that set up a regime that is virtually impossible to control.

A post-separation employment embargo would virtually mean that a Premier or a Minister cannot take any employment with any public authority or any body that has any link with the Government. There are hundreds of thousands of corporations who engage, in part of their business, with government enterprises. Does that mean Ministers or former Premiers are not able to take post-separation employment in those organisations? That is an

onerous burden for members of Parliament. Yet, if the amendment is accepted, that sort of code would become subject to the ICAC. As a consequence it would bring to the ICAC matters that are not strictly corrupt, in that no criminal offence or gross dereliction of duties is involved, but only the later employment of members of Parliament would be relevant. The Government will hit the deck on 25 March, and most Government members are coming to that conclusion.

What will that mean for the employment of the 20 or so Ministers? Many of them will seek employment in the outside community, and good luck to them. They could then be subjected to a committee consisting of nine parliamentarians and five non-parliamentarians making a decision about what their future should be and what code of conduct should be applied. Because the legislation has a specific retrospective function, which the Hon. Dr B. P. V. Pezzutti has as usual missed, their employment activities post-separation will come under the scrutiny of the Independent Commission Against Corruption. If that does not send warning bells to every Government member, I do not know what would. That is the first aspect of the bill I wanted to address: the inappropriateness of the code of conduct and the way it is shaped within the framework of the bill. Worse than that, the bill, having provided for a code of conduct, provides that the Independent Commission Against Corruption can analyse the code of conduct. It also provides that if the commission cannot find any particular breach of the code of conduct it can operate an open-slather clause. Clause 3(c) provides for a new section 9(4), which will read:

> Subject to subsection (5), conduct of a Minister of the Crown or a member of a House of Parliament which falls within the description of corrupt conduct in section 8 is not excluded by this Section if it is conduct that would cause a reasonable person to believe that it would bring the integrity of the office concerned or of the Parliament into serious disrepute.

I think that not even the Independent members, in their manic desire to ram this legislation through, in an unholy deal with the Government, have worked out the meaning of that clause. The amendment provides that the ICAC will be able to make a decision to go ahead and investigate matters even if a breach of the code is not involved. An ethics committee is proposed subsequently in the bill, but if the ICAC desires not to approach the committee it can exercise its powers under the proposed new section 9(4) to do, in effect, what it likes. Judging from the structure of a number of ICAC reports, I am sure that the commission could just say, "We believe that a reasonable person would think that was naughty behaviour and we will investigate it", regardless of whether the conduct breached any code devised by the rather strange committee, which I shall later deal with at length.

Inherent in the first two clauses of the proposed amendment is a serious weakness that needs to be addressed by all members of the Chamber. Honourable members should not be railroaded this afternoon over this important matter. The matters concerned go to the heart of the office of member of Parliament. The matters have been dealt with in detail by the Privy Council in a New Zealand case, *Prebble v Television New Zealand Limited*. That case is important in that it strikes at the heart of being a member of Parliament, the rights and privileges pertaining to that office and the trust invested in that office. Without giving any great background to the case, I should explain that the television company made a number of statements about the relationship of a former Minister of the Crown to a number of asset sales of the New Zealand Government.

The Hon. Dr B. P. V. Pezzutti: Like Frank Walker?

The Hon. I. M. MACDONALD: I shall read sections of the decision of the Privy Council for the

benefit of the Hon. Dr B. P. V. Pezzutti, who obviously knows nothing about the bill or about the Independent Commission Against Corruption. The Hon. Dr B. P. V. Pezzutti ought to have a talk to Don Page in another place, to the Hon. Jennifer Gardiner, or to some other Government members. Perhaps he should talk to Mr Greiner about the Independent Commission Against Corruption. Before he jumps in without thinking about the future, which he is very good at, he should think about the consequences of the amendments and examine them carefully. The Privy Council decision in *Prebble v Television New Zealand Limited* draws attention to important salient facts that bear on the rights of not only members of this House but members of Houses of Parliament within the framework of parliamentary democracy.

The Hon. Dr B. P. V. Pezzutti: I survived the ICAC. You will not.

The Hon. I. M. MACDONALD: I will not be before the Independent Commission Against Corruption. In dealing with this particular case, the Privy Council refered to article 9 of the Bill of Rights 1689. The Hon. J. M. Samios would be very familiar with the 1689 Bill of Rights, which states:

> *Freedom of Speech* - That the freedome of speech and debates or proceedings in Parlyament ought not to be impeached or questioned in any court or place out of Parlyament.

The 1689 Bill of Rights makes it clear that parliamentary contributions made by members of Parliament could not be in any way usurped by outside authorities. The bill before the House today usurps that authority. The learned judges of the Privy Council, Lord Keith of Kinkel, Lord Goff of Chieveley, Lord Browne-Wilkinson, Lord Mustill and Lord Nolan state in relation to this matter concerning privilege:

> In addition to article 9 itself, there is a long line of authority which supports a wider principle, of which article 9 is merely one manifestation, viz. that the courts and Parliament are both astute to recognise their respective constitutional roles.

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In other words, the judges of the Privy Council said that the Parliament can make decisions relating to its own destiny and its own forms of appropriate behaviour, provided that the activity is not illegal or unlawful, which is covered in a series of other Acts. Honourable members should bear in mind that the Independent Commission Against Corruption, despite being allegedly an investigative body because of the powers it is given, has much broader powers that cause it to come within the ambit of what could be described as a tribunal with legal authority. The decision continued:

> So far as the courts are concerned they will not allow any challenge to be made to what is said or done within the walls of Parliament in performance of its legislative functions and protection of its established privileges. . . . As Blackstone said in his *Commentaries on the Laws of England*, of 1830, the whole of the law and custom of Parliament has its original from this one maxim, `that whatever matter arises concerning either House of Parliament ought to be examined, discussed and adjudged in that House to which it relates, and not elsewhere'.

Central to Blackstone's views on the rights and privileges of Parliament is that the Parliament is master of its destiny. If the Parliament wants to have a code of practice, it has the right to enforce that code of practice and it has the right to adjudge that code of practice. However, the Minister in this amendment - this cobbled-together deal made yesterday - endeavours to usurp the profound right of members of Parliament to adjudge themselves on questions concerning conduct and the Parliament's own proceedings.

The Hon. R. S. L. Jones: How successful have parliaments been?

The Hon. I. M. MACDONALD: They have been very successful. The honourable member should consider the number of Ministers who have had to resign in the past 15 or 20 years over questions of

propriety. In effect, this House and the other Chamber have ensured that proper standards are observed. One could list a number of Ministers who have not been able to withstand that test, and it has been the Parliament itself that has applied the test. This bill potentially takes that right away from members of Parliament and places it in the hands of another body. That definitely, without any fear of contradiction, goes against Article 9 of the Bill of Rights 1689 and the theories on Parliament espoused by Blackstone and others. The learned judges in *Prebble v Television New Zealand Limited* said:

> According to conventional wisdom, the combined operation of article 9 and that wider principle would undoubtedly prohibit any suggestion in the present action (whether by way of direct evidence, cross-examination or submission) that statements were made in the House which were lies or motivated by a desire to mislead.

I will come back to that point in a minute because such matters are covered within the code of conduct in earlier provisions. The judges continued:

> It would also prohibit any suggestions that proceedings in the House were initiated or carried through into legislation in pursuance of the alleged conspiracy. However, it is the defendant's case that the principle has a more limited scope.

They did not accept this, because they said:

> In proceedings in any court or tribunal, it is not lawful for evidence to be tendered or received, questions asked or statements, submissions or comments made, concerning proceedings in Parliament, by way of, or for the purpose of - *(a)* questioning or relying on the truth, motive, intention or good faith of anything forming parts of those proceedings in Parliament; *(b)* otherwise questioning or establishing the credibility, motive, intention or good faith of any person; or *(c)* drawing, or inviting the drawing of, inferences or conclusions wholly or partly from anything forming part of those proceedings in Parliament.

I am sure that the Government still stands by the current ministerial code of conduct, and I am sure it would be the Government's submission to this particular monkey committee, which I will deal with shortly. Earlier sections of the code of conduct say, "Ministers shall be frank and honest in official dealings with their colleagues". Furthermore the code says:

> A Minister shall be responsible for assuring that members of his or her staff are made aware of their ethical responsibilities and will require such disclosure or divestment of personal interests by staff members as seem appropriate to the Minister.

It also says:

> In conformity with the Executive Councillor's oath and the requirement of confidentiality of Cabinet proceedings, Ministers will make no unauthorised use of disclosure of information committed to their secrecy.

This is part of the code. None of those three provisions is unlawful. I know that the Hon. Dr B. P. V. Pezzutti would always be frank and I know that he would never leak any material. However, someone is obviously leaking material from the Cabinet because every morning after the Cabinet meeting the latest little story is leaked; someone is clearly breaking the ministerial code of conduct. That, I am afraid, has been part and parcel of government activity since the beginning of time, and it is certainly a common occurrence in the modern era. Yet, because of the operation of sections 7 and 8 of the Independent Commission Against Corruption Act, those actions are corrupt. No doubt those actions are corrupt, yet if one follows this code the Independent Commission Against Corruption could be investigating breaches of those items.

Is that in any way, shape or form a realistic proposal within the context of our democracy? I suggest that it is not. Is it democratic for the Independent Commission Against Corruption to be able to pick up this document and look at a Minister's conduct? Let us face it, at any moment in a political situation one could probably write to the appropriate authority, the Independent Commission Against Corruption, saying that the Minister was not telling the truth about a matter. Under part 2 of the code of conduct that behaviour should be investigated. We are not suggesting that that behaviour is in any way illegal or unlawful, but it comes within the framework of a breach of a clause of the amendment. Not only that, but it brings these matters, which are not in any shape or form unlawful, within that ambit.

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I am concerned about the next area of this absolutely mad, loopy bill - there are no other words that could be used to describe it. It is absolutely loopy. Part 7A deals with the Standing Ethics Committee. I presumed it was setting up a standing committee of the Parliament - the words tend to suggest that. In the past 24 hours, since receiving a copy of this bill, I have searched the records for anything like a standing ethics committee or any standing committee of the Parliament that has representatives who are not parliamentarians. Unfortunately, I have not been able to find any such groundbreaking formulation of a committee in the history of this Parliament. Having searched even wider, because I thought maybe, given the lack of creativity of this Government, it would have to search for a precedent somewhere else within the Commonwealth, I could not find a similar construction of a committee in any other State or Territory of this nation.

However, I accept that the Government was rather panicked into this scenario. Not wishing to have the code of conduct placed within the bill, it had to find some sort of structure that would ultimately give us a code of conduct. When I put to the Minister for Energy, and Minister for Local Government and Co-operatives that the current ministerial code of conduct would make, in reality, a less than ideal code of conduct, he shook his head and wandered away from the issue. He knows that the restrictions contained in that code of conduct would make it impossible to be a Minister and, afterwards, impossible to obtain any lawful or reasonable employment in the community because of the broad-ranging nature of that code of conduct. However, I asked the Clerk to give me some analysis of the standing ethics committee. Establishing such a committee as a standing committee of this Parliament is a strange idea.

What initially annoyed me about this committee, and I wondered what the Minister for Energy, and Minister for Local Government and Co-operatives was on about, is that its membership shall include nine members of the current ICAC committee plus five members of the community. I thought it was most interesting that the Government would introduce this bill, saying that it was defending democracy. I wondered who the members of the current committee were. I grabbed the fine report, so forcefully contributed to by the Hon. S. B. Mutch, and I looked down the list. I noticed that it consisted of six members of the Legislative Assembly but only three members of the Legislative Council. I was absolutely shocked. It shows profoundly that whoever dreamed up the legislation, in consultation with Ministers from this Chamber, forgot about the rights of this Chamber. They denigrated the Chamber on a profound matter of the ethics of this Chamber and its members by having a ratio of two to one within that committee that favours the Legislative Assembly.

I do not mind the Legislative Assembly having six, 10 or 15 members on any such nonsensical committee, but I expected that the Minister for Energy, and Minister for Local Government and Co-operatives, who cobbled together this outrageous deal with the Premier, would at least have argued the rights of this Chamber and suggested there be six members of the Legislative Assembly and six members of the Legislative Council on the committee. I believe there is an equality between the Houses in our democratic process. I can cite many references - and my learned colleague the Hon. J. W. Shaw could probably provide me with one or two - that demonstrate that is the case within the body politic. Yet the Minister for Energy, and Minister for Local Government and Co-operatives had the hide to try to bluster the bill through without taking into account at the outset the needs and requirements of this House as a House at least equal with the other Chamber. That is a gross dereliction of duty by the Minister.

The eloquence of the Clerk should be listened to because he has adequately summed up matters central to this issue and given reasons why under no circumstances should this Chamber permit the amending bill to be dealt with this afternoon.

The Hon. Dr B. P. V. Pezzutti: Who?

The Hon. I. M. MACDONALD: The Clerk of the Parliaments has had a chance to look at the bill and its relationship to the rights and privileges of members of this Chamber. I quote the letter:

> I have been asked to comment on the amendments made by the Legislative Assembly in the Independent Commission Against Corruption (Amendment) Bill. In the limited time available to me I make the following observations.
>
> The general provisions of the amendment bring into question some of the fundamental principles of our system of democratic parliamentary government with its various checks and balances. Any gradual or insidious encroachment of these principles, which have the potential to damage and destroy the substance of the role and functions of elected Members of Parliament in the system of parliamentary government, should be strenuously opposed.
>
> The proposal to vest non-elected members of the Standing Ethics Committee with authority to determine standards of conduct for democratically-elected Members of Parliament, seems to strike at the very heart of the democratic process. This is particularly so when breaches of those standards can result in findings of "corrupt conduct" by an independent statutory authority such as the ICAC.
>
> The Houses of Parliament, composed of their elected Members, hold a unique and essential position at the very heart of our constitutional system. Parliament has this position not only because of many of its great traditions but, more importantly because it has fought and won, and sometimes lost, struggles between both the monarchy and citizens.
>
> Clause 3(a), (b) and (c) of the Bill, which amends section 9 of the ICAC Act, extends the grounds of corrupt conduct so that if a Member of Parliament substantially breaches a code of conduct, adopted by resolution of the House, it is capable as being classified as corrupt conduct if a reasonable person believes that it would bring the integrity of the office of Parliament into serious disrepute.
>
> This provision brings into question the whole concept of the trust and confidence that is placed in members of Parliament as the elected representatives of the people as well as representing the interests of the political parties they are elected to represent. Conflicts of interest are to some extent an inherent part of a Member's role, whether it be the interests of the electorate versus the interests of the State, or the party's interests versus other interests.

> This provision begs many questions:
>
> What will constitute "a substantial breach" of a code of conduct?
>
> How will the "reasonable person" test be applied to ascertain if the conduct of a Member has brought the "integrity" of the Parliament into "serious disrepute"?
>
> What test will be used to determine the "integrity" of the Parliament?
>
> What will constitute "serious disrepute"?
>
> Is not a House of Parliament better equipped to judge whether a Member's conduct has brought

the House and Parliament into serious disrepute?

Parliament itself can determine such. The letter continued:

> Even if ICAC found a Member's conduct as corrupt under the new grounds, it would still be left to a House of Parliament to determine what action to take in regard to the Member. The Houses of Parliament alone should be the sole judge of what constitutes conduct that brings the integrity of the Parliament into serious disrepute.
>
> By way of example, on 25 February 1969 the Legislative Council adjudged a Member (Mr Armstrong) as guilty of conduct unworthy of a Member of the Legislative Council, expelled him from the Legislative Council and declared his seat vacant.
>
> Clause 3(d), which inserts a new Part 7A, regarding a Standing Ethics Committee, into the ICAC Act raises many fundamental problems concerning the separation of powers, the sovereignty and equality of each House of Parliament in issues affecting its Members, issues of privilege and community participation in the processes of Parliament.
>
> Proposed section 72B(1)(a) and following provisions which will be commented on in more detail below provides for a Standing Ethics Committee to prepare draft codes of conduct for members of each House. In matters concerning the conduct, ethics, rights, duties, powers and responsibilities etc. of Members of the Legislative Council, Council Members alone should have the authority to determine such issues. It is anathema to the sovereignty of the Council for Assembly Members, or indeed community Members, to have any power to dictate to Members of the Council what constitutes acceptable standards of behaviour.
>
> Because of the different nature of the role and functions of each House of Parliament, different codes may be necessary for each House.
>
> Proposed section 72B(1)(b) - What does "educative work" mean and involve?
>
> Proposed section 72B(1)(c) is a novel provision. Committees usually report to a House of Parliament, not "give advice . . . in response to a request for advice".
>
> Proposed section 72B(3) is also novel. Given that section 72B(2) allows the Standing Ethics Committee to "seek comments from the public in relation to any of its functions", why is it necessary to publicly display and seek submissions on the draft code of conduct?
>
> It seems to take the concept of accountability and scrutiny too far. Why is it necessary to have public comment on a code which has strictly limited application to Members of each House of Parliament and who are accountable to the people at elections? Is it not analogous the concept of public display and comment on issues which affect citizens in general?
>
> Proposed section 72C(1) provides for a Standing Ethics Committee of 14 members.
>
> Under proposed section 72C(1)(a) the parliamentary members will be the 9 Members on the Committee on the ICAC. Under section 65 of the ICAC Act 1988 that Committee consists of 3 Members of the Council (section 65(1)(a)) and 6 members of the Assembly (section 65(1)(b)). Whilst this imbalance in membership between the two Houses was accepted in 1988 with the then proposed role of the Committee on the ICAC, I would suggest that it is not acceptable to the Council in the current climate. More particularly, the Council has always insisted on equal representation on joint Committees on matters which affect the Members of the House and its sovereignty. For example, the joint Committee on Managing the Parliament.

Proposed section 72C(1)(b) in appointing 5 community representatives to serve on the Standing Ethics Committee is unprecedented and a violation of the concept of separation of powers under our constitutional system.

Members of Parliament are accountable for their actions on the floor of the Parliament and at the ballot box. To allow community representatives to participate in establishing codes governing the way conflicts of interest and other ethical matters concerning Members are to be resolved, is an entirely unwarranted interference with democratic parliamentary processes. What is so special about community members participating on a committee that will give legitimacy to its actions?

How are the "community members" to be accountable for their decisions? They, as members of the committee, are given the power to draft codes of conduct that will presumably be widely publicised before they are submitted to the House or while they are being considered by the House. They are given authority to provide advice on ethical matters concerning Members, and to carry out educative work relating to ethical standards applying to Members.

Despite the merits or otherwise of community representatives serving on parliamentary committees, it is appalling and an insult to the Council that the Assembly would agree to any proposition where the number of community representatives will be greater than the number of Members to represent the Council on the Ethics Committee.

That brings me to another weakness with the construction of the committee. A quorum will comprise one member of the Legislative Council, one member of the Legislative Assembly and one community member. One could have a situation where a committee comprises one Council member, one Assembly member and three or four members of the community. The community members would effectively have the majority and would determine the ethical situation of members of Parliament. In his submission the Clerk said:

The appointment of community representatives raises many issues concerning privilege and contempt.

This is very important. The Attorney General would know this very well indeed.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! I understand it was an advising, not a submission.

The Hon. I. M. MACDONALD: You are right, Mr Deputy-President. It is an advising. The Clerk continued:

Any parliamentary committee which is constituted by statute, rather than by resolution of each or both Houses of Parliament, puts at risk the cover of parliamentary privilege for the Committee.

How are community representatives to be protected in the exercise of their legitimate functions?

Members of Parliament are bound by Standing Orders and parliamentary practice in the exercise of their functions on Committees. Since community representatives are not bound by the Standing Orders and practice, how will they be accountable for their conduct at committee meetings?

How would you deal with, for example:

premature disclosure of the contents of a report or in camera evidence by a community representative

disorder or misbehaviour at a committee meeting by a community representative

intimidation or threats directed to community representative on the Committee.

The Hon. R. S. L. Jones: Who wrote this?

The Hon. I. M. MACDONALD: The Clerk wrote this particular advising. He continued:

> The code of conduct applicable to Members of Parliament will not apply to community representatives on the Committee.
>
> If public participation in the development of ethical codes for Members is desired, this could be achieved in the manner already available under the Standing Orders ie, by the House appointing a Committee which would call for written and oral submissions from the public. Such a committee, if adequately staffed, might also be capable of carrying out the educative and advisory functions proposed for the committee in the amendments. Once again, there would be wide scope for public participation in this process through the making of submissions, while ultimate decision-making authority would remain with the Parliament.
>
> Members of Parliament have a culture, practices and conventions as part of parliamentary life and which is so necessary and important to "behind the scenes" negotiations which take place in regard to both proceedings in the House and Committees. Community members will be alien to these traditions.

I would wonder how community representatives would view the particular machinations that went on to get this bill before us today after discussion in the other House and how they would view the deal. I wonder how the five community representatives would view a deal that says, "Look, we will vote for Mr Justice O'Keefe in the other place" - leaving aside his merits; I have worked with him in a number of areas and have never had a difficulty with him - "but in the other House we are determined to get this new commissioner through for the Independent Commission Against Corruption. In exchange for getting our agreement to support Mr Justice O'Keefe as the chairman of the Independent Commission Against Corruption we want you to accept this particular bill."

I wonder what independent-minded community members of such a standing committee on ethics would think about that proposition having regard to the provisions of the code of ministerial conduct that I have related. Honesty would be one criterion that would be interesting to attest to. They might take a dim view of a person receiving a benefit in lieu of winning a particular issue. I think a commissioner would take a very dim view of the pressure that would have been applied to come up with this particular bill. Honourable members on the other side had serious reservations about the bill and a deep debate about it in their party room in the last day or two.

I have spoken to just about every Government member. I do not think I could name the bill's supporters other than probably the Minister who introduced it this afternoon. He probably had a hand in the bill. Questions could be asked. If the provisions of this bill were in operation and the code of ministerial conduct were to go before the Independent Commission Against Corruption, what would it find in relation to all the other provisions that are not illegal matters but matters of broader and wider purview than strictly legal matters. I wish to finish with the Clerk's advising on proposed section 72F. He said:

> Proposed section 72F(3)(a) provides for a quorum of 7 members, with at least 1 Council member, 1 Assembly member and 1 community member . . .

That is clearly not right. In conclusion the Clerk said:

> Proposed section 72G - The non-application of Parliamentary Evidence Act brings into question

the ability of the Committee to compel the attendance of a witness, the refusal of a witness to answer lawful questions among other things.

I have taken some time to read to the House the advising of the Clerk. Over the next couple of weeks honourable members should carefully read his advising in combination with the comments I have made about the bill. The bill must be thrown out or halted in some form by this Chamber. The Hon. J. W. Shaw has written an excellent amendment to the bill that will do away with the unprecedented, loopy concept of a standing committee on ethics with a membership of non-parliamentary members and which will also narrow the matter to dealing with the matters raised by Mr Temby when he was the Commissioner of the Independent Commission Against Corruption. It is strange that Mr Hatton in another place should not run with the proposal by Mr Temby. The bill is trying to tie both Houses up in this incredible arrangement that will lead to all sorts of diabolical difficulties in the new year.

We would have to advertise to find the five community representatives; then seven of the members have to agree on the five members to become community representatives. That would be an interesting course of action in itself. Many of the people that will wish to be on the committee will be scrutinised carefully by members of Parliament. The community representatives will not be elected representatives yet they will be appointed to a standing parliamentary committee that determines our rights. All nine members of this committee would look over this list with a fine toothcomb.

Reverend the Hon. F. J. Nile: Someone like Lennie McPherson.

The Hon. I. M. MACDONALD: I do not think even the Minister for Energy, and Minister for Local Government and Co-operatives would put up with Lennie McPherson, but in the end we would be faced with an interesting situation. As there will be only three members from this Chamber on the committee, will they sit together working out who will be appointed to the committee and who will look after our interests or promote the privileges of this particular Chamber, or do we -

The Hon. R. S. L. Jones: Get done over.

The Hon. I. M. MACDONALD: - get done over by the collective from another Chamber. These questions have not been thought through in devising this proposal. Even the Minister for Energy, and Minister for Local Government and Co-operatives, who is as glib as usual - and it is good to have the glib and talkative Minister back in the saddle - has not thought of them. I have often thought that the Minister for Energy, and Minister for Local Government and Co-operatives knows not what he does. He is so shell-shocked from years of trying to put deals through with the Independents that he has lost sight of the plot. If there were any need to convince even one member opposite of that fact, I believe I have made out a rather strong case for it this afternoon.

The Minister's interjecting cohort, the Hon. Dr B. P. V. Pezzutti, does not understand that subsection 8(3) of the Independent Commission Against Corruption Act spells out that the Act applies retrospectively to conduct that occurred before the commencement of that subsection. So any attempt at consensus politics with the Independents is rather misguided. At no point in time have the Independent members of the lower House and the Government really considered the interests of this House. They ought to read again some of the provisions of the Independent Commission Against Corruption Act to learn the breadth of those provisions and how they apply to disciplinary matters, even for late arrival at work and improper attire. Those sorts of matters are caught within section 9 of the Independent Commission Against Corruption Act. The provisions of this bill affecting our privileges as members of Parliament will be drawn holus-bolus within those provisions of the Act.

This is a sad amendment. It is an amendment of a shell-shocked government that is probably sick to death of the dealings it has had to have with Independents over the past few years. The amendment

probably was forced upon the Government. I think some members opposite have not read it. I note that some have said they have been working on this for eight weeks. I heard there was a bit of work being done on a code of conduct, but the result is not only a code of conduct but a provision that if that code of conduct does not work there is another wide-ranging provision that you could drive a truck through.

Applying the reasonable person test could mean that we will be able to do what we like. I do not think the Minister has grappled with the consequences of the bill. I said on 3 June 1988 that the Government had not grappled with the potential problems it was creating by subjecting the rights and privileges of members of Parliament to an Act that was so broad that it could undermine the democratic principles so eloquently expressed in the Bill of Rights of 1689, in Blackstone's works on the separation of powers, and in the words of the learned judges of the Privy Council and the courts of appeal of this State.

The presentation of this bill threatens to undermine the integrity of this House. The Hon. Beryl Evans apparently finds that fact a cause of some mirth. Apparently she is not worried about these measures because she will not be a member of this place after March next year. I remind her of the retrospectivity of the provisions of this bill and the broad nature of its provisions. Even when she is driving her little red Mazda up the road to Mudgee she will be comfortable in the knowledge that, despite the actions of her colleagues in the other Chamber and even one or two of her colleagues in this place, this House will come to the appropriate conclusion that they should uphold the rights and privileges of members of Parliament by devising appropriate amendments to carry this measure into effect.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The Hon. I. M. Macdonald quoted advice from the Clerk on this bill. I remind him that a member who seeks advice from the Clerk, as all members are entitled to do, and uses that advice in the Chamber is making that advice the member's own statement; it is not to be taken as a statement of the Clerk on the bill.

Reverend the Hon. F. J. NILE [5.34]: In speaking to the Independent Commission Against Corruption (Amendment) Bill I wish to raise a number of concerns about the bill. Perhaps it should have been called the standing ethics committee bill, because that seems to be one of its main purposes. It concerns Call to Australia that honourable members have had insufficient time to study this seven-page bill, which we have only just received. Apparently there have been lengthy discussions with some members. The honourable member for Manly told me that the Independents in the other place had spent weeks working on it. I said it was a pity that other members of Parliament were not privy to those discussions or were not given copies of some of the basic documents in advance. In effect, this bill is very much a creation of the three Independents in the other place. That is not the way to develop legislation that affects both Houses and seriously affects the rights and privileges of members of those Houses.

I support the advice of the Clerk, which raises a number of serious questions relating to the role of members of the Legislative Council and of its sovereignty. The bill seems to be in conflict with the discussion paper issued by the Committee on the Independent Commission Against Corruption of this Parliament in April 1994. It examined the whole question of the pecuniary interests of members as well as a code of ethics for members of Parliament. That discussion paper, which covered issues that relate directly to this bill, states that submissions on it do not close until Friday, 4 November. I assume that after that date the ICAC committee would meet to consider those submissions with a view to producing further recommendations. That is another dilemma for members of this House, particularly those who were not privy to the discussions on the bill.

Also before us is an amendment that the Hon. J. W. Shaw foreshadowed will be moved by the Opposition. At first glance one might think that the amendment seeks to insert a new clause in the bill. In

fact, the amendment would omit all words from line 9 on page 2 to line 5 on page 7. In other words, it would delete pages 2 to 7 of this seven-page bill, leaving only the cover of the bill remaining. It may be that that is a desirable way to move, but such an amendment shows the dilemma confronting members of

this House, particularly members on the crossbenches, as the Government wants the bill to be passed unchanged and the Opposition wants to delete most of its provisions.

Call to Australia has no direct argument with the Opposition's one-part proposal, which is based on a recommendation of former commissioner Mr Temby that the commission should make findings on facts and report to the Parliament, leaving it to the Parliament to make its own decision. That is a right and proper way to move on these matters. I repeat, members of this House other than Government members have not had sufficient time to study the bill and its serious ramifications. Even though the Independents in the other place may have been well intentioned, through this bill they will set in motion a measure which will have ramifications that may not have been properly assessed. Perhaps those ramifications are difficult to assess, understand or comprehend. I particularly refer to matters raised by the Hon. I. M. Macdonald in relation to the setting up of the standing ethics committee, a most novel concept. Proposed section 72C states that the standing ethics committee is to consist of 14 members comprising nine parliamentary members being members who are for the time being members of the Committee on the Independent Commission Against Corruption.

That particular committee was set up, as has been said already, with a great imbalance. It has on it only three members of the Legislative Council and six members of the Legislative Assembly. They comprise the nine members. Added to that is a unique and novel, and perhaps dangerous, aspect of five appointed community members. The committee will comprise 14 members, of whom three will be from this House. The committee will basically treat this House as if it is a subcommittee of the other place. To have on a committee of 14 members only three members of this House is a remarkable proposal and one that could only come from the three Independents in the other place. The three Independents in the other place, so far as I have heard from their speeches, particularly the honourable member for South Coast, have a very disparaging and critical view of this place, one that I strongly object to. If those Independents were consistent they would move to abolish this House. I find that a very disturbing proposal. I have not had the opportunity to study the bill, but I have been looking at it while listening to the Hon. I. M. Macdonald. Proposed section 72G(1) states:

> The Standing Ethics Committee may request the attendance of persons before it and may request the production of papers and records to it.

It is a very powerful committee like other parliamentary committees in summonsing people. It also has power in 72G(2) as if it were a joint committee of both Houses of Parliament but with a number of community members on it who are not members of Parliament. Proposed section 72G(3) states:

> The Parliamentary Evidence Act 1901 does not apply to the Standing Ethics Committee.

We have had some accusations about kangaroo courts and Star Chambers. The standing ethics committee might develop to become a very powerful body. Perhaps members of this House would come to fear that committee, not because they have been guilty of corrupt behaviour but just because of the powers it will have. That is another reason why I believe this bill should not proceed. It should be adjourned to allow all members of the House, including Opposition members and particularly members on the crossbenches, to study the bill more carefully and get some feedback on it from senior, experienced members of Parliament, as well as legal advice.

In saying that, I want to put on record that Call to Australia fully supports having strict codes of conduct, but believes that this House should prepare its code of conduct and that the other place should prepare its code of conduct. They may be identical, they may not be, but in many ways we have different roles. I note that the discussion paper issued by the parliamentary Independent Commission Against Corruption committee included a reprint of the submissions by Mr Speaker in the other place. I was amazed to read that if members did not obey this code of conduct they would be in danger of being challenged. Mr Speaker said:

A member should treat all persons seeking assistance without discrimination. A member should make every endeavour to assist those who seek help, consistent with the need and urgency of the matter and its relevance to the jurisdiction within which the member operates.

Already some members of this place have been in trouble with the ICAC because they had interviews and appointments with people who might have been seeking to have certain development applications approved. The very fact that they spoke to those persons prompted the implication that they might be involved in corrupt conduct, and brought them under the shadow of the Independent Commission Against Corruption.

Members of both places should have the right to decide whom they wish to speak to and from whom they wish to receive submissions. I certainly would not be very happy to receive submissions from John Lark, the multimillion dollar porn peddler, or from the people who operate the brothel rings in Sydney, or from anyone who represents a paedophile support group. How would members feel if that were part of the code of conduct. These things have to be very carefully assessed. Call to Australia also supports in principle that there should be an ethics committee, but there should be an ethics committee of the Legislative Council and an ethics committee of the Legislative Assembly. Those committees would have their respective codes of conduct, and those committees would have to discuss with the privileges committee how they would function.

This legislation is complex. It is not a large bill but its implications are some of the most serious that have come before this House since it was established in 1825 with appointed members. Later in the debate I will move an amendment to set up a select committee to consider and report on this bill. That

committee would have on it four Government members, two Opposition members, one member of the Australian Democrats and one Call to Australia member, to be appointed by the respective leaders of those parties. I also realise there could be an accusation that a select committee is set up simply to bury a bill. I would be strongly in favour of the committee being required to report in a fairly urgent manner on this bill. I would propose that it report by the last sitting day in 1994 so that the report and the bill could be dealt with, along with any other amendments that might be moved.

That seems the only way in which this whole matter can be dealt with. This Chamber must be the master of its destiny. We cannot be manipulated by three Independent members of the other House dictating to this place, even if they have good intentions. The road to hell is paved with good intentions, as someone once said. We need to examine those proposals with objectivity and see what is best for this House, and in the long run to see what is best for the people of this State. I wonder how those three Independent members would feel if members of this House devised a program and sought to impose it on them. I feel there would be a loud outcry and very noisy objections if that happened. I move:

That this debate be now adjourned until next sitting day.

Question put.

The House divided.

Ayes, 17

Mrs Chadwick	Mrs Nile
Mr Coleman	Rev. Nile
Mrs Evans	Mr Ryan
Miss Gardiner	Mr Samios
Mr Gay	Mr Rowland Smith
Mr Hannaford	Mr Webster
Mr Jobling	*Tellers*,

Mr Moppett	Mr Jones
Mr Mutch	Dr Pezzutti

Noes, 14

Mrs Arena	Mr Shaw
Ms Burnswoods	Mrs Symonds
Mr Dyer	Mr Vaughan
Mr Enderbury	Mrs Walker
Mr Johnson	*Tellers*,
Mr Kaldis	
Miss Kirkby	Mrs Isaksen
Mr Manson	Mr Obeid

Pairs

Mr Bull	Dr Burgmann
Mrs Forsythe	Mr Egan
Dr Goldsmith	Mrs Kite
Mr Pickering	Mr Macdonald
Mrs Sham-Ho	Mr O'Grady

Resolved in the affirmative.

Debate adjourned.

ROYAL COMMISSION (POLICE SERVICE) BILL

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [5.56]: I move:

That this bill be now read a second time.

I seek the leave of the House to have my second reading speech incorporated in *Hansard*.

Leave granted.

The object of this bill is to confer additional powers on the Royal Commission of Inquiry into the New South Wales Police Service and to assist the royal commission in the conduct of its inquiries.

As honourable members will recall, when the motion to establish the royal commission was first brought before this House, the Government's position was that this inquiry could best be conducted by the Independent Commission Against Corruption. The reason for adopting this position was a simple one. The ICAC can be likened to a standing royal commission in New South Wales. It has the necessary powers, resources and structure to carry out all the functions of a royal commission. It was the Government's view that the establishment of an entirely new body for the purpose of conducting investigations into the New South Wales Police Service represented an unjustified and unnecessary duplication of resources and effort.

However, once this House had resolved that the current royal commission should be established, the Government clearly indicated that it would ensure that the royal commission was given every assistance to enable it to carry out its functions effectively. In this regard, shortly after his appointment

as royal commissioner, Mr Justice Wood advised the Government that he would be seeking the introduction of legislation with the aim of placing the royal commission in a similar position to that of the ICAC. As has been noted by Commissioner Wood, the powers given under the Royal Commissions Act are narrower than those given to the ICAC. It is in the context of this request by the royal commissioner, and the Government's determination to ensure that the royal commission is suitably empowered to conduct its inquiries, that this bill has been brought before the Parliament.

Having in mind the scope of the powers which are dealt with in this bill, the Government has decided that the bill's operation should be limited to apply only to the current royal commission. As I have already indicated, the bill will confer upon the royal commissioner a number of additional powers which are currently given to the ICAC but which are either not available under the existing royal commissions legislation or are only available in a more limited form. In particular, the bill is intended to enhance the royal commission's information-gathering powers. For example, the royal commissioner will be empowered to require a public authority or public official to produce a statement of information to the royal commission. This power will be in addition to the royal commission's existing power to summons persons to give evidence and produce documents.

For the purpose of investigating criminal offences, the royal commissioner, or his officers, will be given a new power which will enable them to enter premises occupied or used by a public authority or public official for the purpose of inspecting those premises and inspecting any documents or other things in or on those premises. Further, the royal commissioner will be able to take copies of documents which are found in the course of such inspections. The bill will require the public authority or official to make facilities available to the royal commissioner to enable him to exercise this power.

For the purpose of investigating possible criminal offences, the royal commissioner will also be empowered to issue search warrants and warrants for the arrest of witnesses. Arrest warrants will be issuable in circumstances where it appears that either a person will not attend to give evidence before the royal commission or is about to leave the State. The royal commissioner currently has no power to issue search warrants and is only empowered to arrest persons in circumstances where they have been served with a summons to appear before the royal commission and have failed to answer such a summons. Honourable members should note that the bill provides that the exercise of all these powers will be subject to the same safeguards as are currently contained in the ICAC Act. The bill gill give legal practitioners assisting the royal commission, royal commission staff and persons appearing before the royal commission, the same protection from liability as is conferred upon similar persons under the ICAC Act. This provision will strengthen, and enlarge, existing protections in the royal commissions Act. In addition, a new power is to be given to the Royal Commissioner to expressly enable him to make arrangements to ensure the protection of royal commission witnesses.

Secrecy requirements are to be imposed upon the royal commissioner, his counsel and officers. The royal commissioner will also be empowered to direct that material cannot be published or can only be published in a particular manner. The exercise of this last power will be subject to a requirement that the royal commissioner must have regard to the public interest before issuing a direction regarding the publishing of material. The bill also contains provisions which relate to the provision of information, and the giving of evidence, by the Ombudsman. In particular, the Ombudsman will be expressly permitted to furnish information to the royal commission. The bill also expressly declares that the ombudsman, and his officers, are competent but not compellable, to appear as witnesses before the royal commission.

As honourable members may be aware, the Prime Minister has recently advised that he proposes to introduce measures which will enable the royal commission to be given relevant information under the Financial Transactions Reports Act 1988 and the Taxation Administration Act 1953. In addition, although t Commonwealth has not been prepared to give the royal commission the same powers as

the ICAC to conduct telephone intercepts in its own right, the Prime Minister has indicated that he will introduce amendments to the Telecommunications (Interception) Act 1979 for the purpose of enabling the royal commission to receive telephone intercept information from those agencies which are empowered to conduct such intercepts. The Prime Minister has also indicated that Commonwealth authorities, such as the Australian Federal Police and the National Crime Authority, will offer their assistance and co-operation to the royal commission. This bill will ensure that the royal commission has the necessary legislative backing to enable its inquiries to be undertaken thoroughly and efficiently. I commend the bill to the House.

The Hon. R. D. DYER [5.57]: The Opposition supports the Royal Commission (Police Service) Bill. The principal objects of the bill are to confer on the police royal commission powers paralleling those conferred on the Independent Commission Against Corruption, to facilitate the cooperation of public authorities and officials - a prominent example of which would be the Ombudsman - with the inquiry being conducted by the commission, and finally, to assist generally the conduct of the inquiry being conducted by the royal commission. Mr Justice Wood, who is conducting the Royal Commission into the New South Wales Police Service, has sought the introduction of legislation to place the royal commission in a similar position to the Independent Commission Against Corruption.

The bill enhances the commission's information-gathering powers. For example, it enables the commissioner to require a public authority or a public official to produce a statement of information to the commission. The bill also permits commission officers to enter premises occupied or used by a public authority or public official for the purpose of inspecting any documents or things and to take copies of documents. The royal commissioner will be empowered to issue search warrants and warrants for the arrest of witnesses, and to provide for the protection of witnesses appearing before the royal commission. The bill provides for powers contained in the Independent Commission Against Corruption legislation regarding search warrants - in fact wider powers than are currently available under the Search Warrants Act. For example, under this bill a warrant will last for one month, while under the Search Warrants Act a warrant is available for three days only.

Secrecy requirements are imposed on the royal commissioner, counsel and officers of the royal commission, and the commissioner will be able to direct that material cannot be published or can only be published in a particular matter having regard to the public interest. The Ombudsman will be permitted to furnish information to the commission, although the Ombudsman and his officers will be only competent but not compellable witnesses. The Prime Minister has agreed to enable the royal commission to be given relevant information under the Financial Transaction Reports Act and the Taxation Administration Act. The Commonwealth, however, will not agree to give the commission the power to conduct telephone intercepts. The commission will be able to receive information from telephone intercepts by other agencies. The Opposition supported the creation of the royal commission, and in view of the request by the royal commissioner for additional powers - although admittedly the powers sought are wide - it appears appropriate that the Opposition agrees to the measures contained in the bill. As I indicated at the outset, the Opposition gives its support to the measure before the House.

The Hon. ELISABETH KIRKBY [6.00]: The Australian Democrats support the Royal Commission (Police Service) Bill, which, in the main, confers powers that the Independent Commission Against Corruption already has but the Royal Commission into the New South Wales Police Service does not have. Those powers will now be conferred on this royal commission - not on all royal commissions, but only on this particular royal commission. That is why we think it proper to stress that the powers will be specific to the Royal Commission into the New South Wales Police Service. I do not intend to canvass in full all of the additional powers the bill will give to the royal commission. It should suffice to say that the powers being conferred mirror those already conferred on the ICAC, such as requiring a public authority or public official to produce a statement of information and giving power to enter premises occupied or used by a public authority.

I have absolutely no doubt that these powers will assist the royal commission in its task of gathering information, which is essential to the proper carrying out of its duties. One matter that has been brought to my attention is the fact that there has been recent concern - and stories have been leaked to the media - about special information units being set up within the Police Service to filter information that may go through to the royal commission. Because of those stories, and whether or not they are true and whether or not such special units will exist, I believe that the additional powers will be essential. Another matter that has been brought to my attention is concern about the power of the royal commissioner under this bill to issue search warrants. That power only mirrors the powers in section 40 of the Independent Commission Against Corruption Act.

The legislation is worded so that as far as is practicable the ICAC and, in this case, the royal commission will have to apply to an authorised justice for a search warrant. The discretionary power of the ICAC commissioner and the royal commissioner to issue their own warrants was given because of the insidious nature of what they are up against, about which most honourable members agree, and because exceptional circumstances may arise. The former ICAC commissioner, Ian Temby, argued for the retention of this power in front of the committee on the ICAC during its review of the Independent Commission Against Corruption Act. I quote Mr Temby's argument:

> I can visualise circumstances where it may be highly convenient for the provision to be there, although it might not arise for a decade. You can visualise circumstances of extraordinary urgency and isolation. Let us presume it is midnight, the telegraph lines are down and it is critically important to issue a warrant. It has to be done immediately because someone is about to burn something. You can imagine that happening. It probably would not arise, but you can imagine it happening. One could imagine - I hope this is notional - a large scale conspiracy involving members of the judiciary, at whatever level or at several levels. It could be extraordinarily imprudent to go to one of their colleagues to seek a warrant. That situation probably would never arise, but you cannot say that it will not. There is no danger in retaining the present situation because we have not done it. If we do it, we will have to answer for it. It is therefore self-rectifying.

I note the concerns that have been expressed to me on civil liberties grounds. However, I have to weigh up those concerns against the problems we are facing. The ICAC has already investigated the relationship between police and informers. I believe that it would not be appropriate for the Royal Commission into the New South Wales Police Service to have fewer powers than the ICAC. It should be put on the record that the power for the ICAC commissioner to issue his own search warrants has not been used to date. There are a number of safety mechanisms to ensure that this power is not used lightly. The first is that search warrants should be issued by authorised justices as far as is practicable. The second is the application of part 3 of the Search Warrants Act. I should like to ask, and perhaps the Minister could address this question in his reply, given that the ICAC must declare any use of this power in its annual report, whether there be an equivalent reporting mechanism for the royal commission.

A related issue on which I further seek information is that a search warrant issued by the royal commission may stay in force for up to one month. Under the New South Wales Search Warrants Act warrants may remain in force for three days, with a maximum further extension of another three days. The Commonwealth Crimes Act provides that search warrants may remain in force for up to seven days. The Gibbs committee review of Commonwealth criminal law of 1990 concluded that:

> . . . a search warrant should not be of unlimited duration and a period of seven days would make a reasonable allowance for unexpected eventualities in respect of warrants . . . If a warrant cannot be executed within this period, a fresh warrant can be sought.

The Minister might explain to the House why a search warrant issued by the Royal Commission into the New South Wales Police Service should have a life longer than seven days. Why has it been decided to allow the royal commission to have warrants that will exist for one month? Today I received a facsimile

transmission from the Royal Commission into the New South Wales Police Service about the legislation. The letter was signed by senior counsel assisting the commission, Mr G. W. Crooke QC. The letter stated:

Re: Royal Commission (Police Service) Bill 1994

I understand the above Bill has been amended in the course of its passage through the Lower House.

The amendments that have been made were at the behest of, and with the full support of, the Royal Commission. Indeed, the Royal Commission sees its task as greatly impeded unless the amendments are put in place in the final Act.

The amendments were supported by the Independents and the Opposition in the Lower House, but opposed by the Government. I am not aware of what the attitude will be to the Bill in its amended state when it comes before the Lower House. The purpose of this letter is to acquaint you with the firmly held views of the Royal Commission which have been conveyed to those who supported the amendments in the Lower House.

The qualification must be made that the Government did support the amendment which resulted in the deletion of Clause 38(2)(c) - (restriction on making a report).

If the Bill were to be passed without the amendments, the concerns of the Royal Commission briefly summarised relate to:

(a) The general desirability of the proceedings being heard in public, so as to reinforce confidence in the Royal Commission, to encourage potential witnesses to come forward, and to demonstrate to corrupt police officers who are waiting to be called, the futility of giving false evidence.

(b) The need to encourage public "ownership" of the Royal Commission by holding open hearings which will, as a by-product of public support generate a flow of information and evidence to the Commission.

(c) The undesirability of being limited in the picture which can emerge at public hearings if certain matters must be heard in private, especially when, by the very nature of its Terms of Reference, the Royal Commission is inquiring into the larger picture, which is not uncomplicated.

(d) The need to avoid, so far as practicable, being tied up in litigation challenging decisions made under Subclause 2.

(e) The important issue of fairness of a trial, like the guilt or innocence of any person involved in the Commission's inquiries, should be left to the criminal court to decide. No trial will take place if the Court is of the opinion that it cannot be a fair one. Experience in the Fitzgerald Inquiry in Queensland showed fair trials could still be held after a Royal Commission. Publicity as to the circumstances surrounding alleged criminal conduct is often quite intense, e.g. at commital proceedings under the current "Backpacker" prosecution.

You will of course understand that the speedy passage of the Bill is of paramount importance to the Commission and that the matters raised are considered by the Commission to be of great importance.

I have been assured by the Attorney General that, although in another place the amendments that were passed were opposed by the Government, it is not the intention of the Government to try to reverse that decision of another place during this debate tonight. I feel quite sure that that understanding that was conveyed to me by the Attorney General will be honoured and that the bill will pass through this Chamber as amended by the Opposition and the Independents in the lower House. With those remarks, I take great pleasure on behalf of the Australian Democrats in supporting the Royal Commission (Police Service) Bill as amended.

Reverend the Hon. F. J. NILE [6.11]: Call to Australia supports the bill. We have no objections to the bill but, as we have said already on the record, it is a disgrace that this matter required the setting up of a royal commission when it could have been so easily handled by the Independent Commission Against Corruption. That is to be regretted. We now have an overlap in this State between the Royal Commission into the Police Service and the ICAC, which has conducted inquiries into various aspects of the Police Service, of this State and its officers, up to high rank.

The overlap is revealed on page 8, part 4, in proposed section 15(2) - "the commissioner on application made to the commissioner". So we have the royal commissioner making application to the ICAC commissioner for the issue of search warrants and listening device warrants. All that is so unnecessary. We still have the ICAC legislation with powers that exceed those of the royal commission. The Federal Government has been indirectly critical of this approach by not cooperating in giving powers to the royal commissioner that can already be exercised by the ICAC commissioner. This royal commission could take a couple of years and cost up to $100 million. How many schools and hospitals, which the Government is endeavouring to develop, will be scrapped as a result of that money being spent on a royal commission?

The Federal Government would not give to the royal commissioner the power to tap phones and required him to go through the National Crime Authority. I understand from the Attorney General that the problem has been resolved by stationing at the royal commission an NCA officer who has those powers and who can carry out phone taps efficiently. Once information is leaked that a certain phone is being tapped, it is almost pointless to continue the phone tapping because it would certainly affect the conversations being conducted on that phone and would make worthless any attempt to investigate possible corrupt behaviour. This is an obstacle that the royal commission must overcome, which could have been overcome so easily by referring this matter to the ICAC.

I do not fully understand why the ICAC could not conduct the inquiry. I know that the Government wanted it referred to the ICAC, but I do not fully understand why the Labor Party and the Independents were so determined to have a separate royal commission. By inference it would almost suggest that they have no confidence in the ICAC. The establishment of a separate royal commission has set in train a process that will undermine the effectiveness of the ICAC. I hope that will not happen. I would be very concerned if it were the intention to set up a parallel body. Nevertheless, we will support the bill so that this matter can be cleared up as quickly as possible and so that the New South Wales Police Service in this State can carry out its duties.

The New South Wales Police Service is already subject to more supervision and inspection than any other police force in the world. It now has another body to investigate its activities. A great number of police will be tied up in reporting, being investigated, producing answers and not being able to take care of the people of this State, and that is a tragedy. I asked the Commissioner of Police in the estimates committee what would be the cost of having staff and administration attend the commission inquiry that will involve the Police Service. The royal commission cannot be ignored. Police officers involved will not be able to continue with their normal duties. It must detract from their effectiveness and efficiency. Perhaps that can be justified by saying that the royal commission will find out who the corrupt police are, and they will be charged and, if necessary, discharged from the Police Service or put in prison.

But it could have been done in a better way. It could have been done through the ICAC in a more

low-key way progressively weeding out corrupt officers. The other day a driver who was stopped by a police officer was told that he had shown a high reading on the random breath testing device, which was not true. The police officer told the driver that if he paid $700 the officer would not proceed with the charge. Eventually the driver paid the $700 but he reported doing so. Listening devices were attached to the driver. The police officer concerned is guilty and will pay the price. The task should be ongoing, rather than tying up the Police Service from the Commissioner of Police down to the clerk on the door at police headquarters. There is a degree of an anti-police element in this approach taken by the Independents in the other place. It is a great pity if

people suspect that all police are corrupt or that the Police Service as an organisation is corrupt. I do not believe that is true. There certainly can be corrupt individuals and they have to be discovered. The ICAC is capable of doing that and, in this case, could have adequately and efficiently carried out those tasks. With those reservations, we support the bill.

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [6.18], in reply: I thank honourable members for their support of this bill. I assure the Hon. Elisabeth Kirkby that it is not the intention of the Government to oppose the amendments carried in the lower House and that the bill presented to this House has the support of the Government. The Hon. Elisabeth Kirkby raised two other questions. She inquired why there is no proposal for the royal commission to report to Parliament in the same way that there is a requirement for the ICAC to do so. The reason for that is that the commission to the royal commission, which was signed by the Governor on 13 May, requires the royal commission, as expeditiously as possible, to deliver the report of the results of its inquiry in writing on or before 30 June 1996.

The royal commission has a terminal life, unlike the ICAC. We will have a report from the royal commission on or before 30 June 1996. The Hon. Elisabeth Kirkby asked why the search warrants have a life of one month and not a limited life of seven days as in the Federal legislation, or three days as in the search warrants legislation. This legislation is modelled on the Independent Commission Against Corruption Act. That Act gives its search warrants a life of one month. We are seeking that the royal commission and the ICAC have comparable powers. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BUSINESS OF THE HOUSE

Bills: Suspension of Standing and Sessional Orders

Motion, by leave, by the Hon. J. P. Hannaford agreed to:

That so much of the Standing and Sessional Orders be suspended as would preclude Government Business Notices of Motion Nos 1 to 7 being dealt with in globo.

SENTENCING LEGISLATION (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [6.20]: I move:

That this bill be now read a second time.

I seek the leave of the House to table my second reading speech and have it incorporated in *Hansard*.

Leave granted.

This bill represents yet another positive development in the ongoing commitment to the rights of victims of crime which the Government has pursued with determination and vigour since March 1988. For far too long victims were the forgotten element in the criminal equation. This Government has consistently acted to ensure that victims of crime are treated with compassion and consideration and that there is a clear recognition of the trauma and often lasting impact which a criminal act has on not only the victim but their family as well.

Consistent with this approach, the Government has decided to legislate to further extend the rights of victims of serious crimes and their families. In the future, victims of serious crimes, or their family representative in some circumstances, will be entitled to make submissions to those statutory bodies which are required to make decisions or recommendations which can lead to serious offenders being allowed outside prison and into the community either on parole or on various forms of temporary leave.

This Government led the way nationally in introducing the principle of truth in sentencing in 1989 to ensure that prisoners served the whole of the minimum term of their sentence as determined by the court.

The Sentencing Act put an end to the ridiculous system of remissions which existed under the previous Labor governments, which regularly made a mockery of the sentences handed down by the courts, especially to persons convicted of serious crimes. Thankfully, due to the efforts of this Government, the system of remissions has now ended. Inmates and, equally importantly, their victims and the families of those victims, now know with certainty the precise length of minimum sentence to be served by the inmate.

What must be acknowledged, however, is that the great majority of all inmates, even those convicted of serious offences, must be eventually released from prison. The majority of these prisoners have maximum sentences which will expire during their lifetime. Most of these prisoners will be granted parole and prior to being paroled are usually granted various forms of temporary leave from prison, such as day leave and work release to help prepare them adequately and responsibly for their eventual return to the community. Decisions regarding parole and recommendations to the Commissioner of Corrective Services for changes to the security classification of prisoners, which can lead to eligibility for temporary leave from prison, must be made without political interference and are quite properly the responsibility of independent statutory bodies.

In future, these bodies will be required to take into account all submissions received from or on behalf of a victim of a serious crime before they make a final decision or recommendation, as the case may be, in relation to the serious offender under consideration.

The object of this bill is to make a number of amendments to the Sentencing Act, the Prisons Act and the Crimes Act. The principal amendments are to be made to the Sentencing Act to revise the procedures relating to the consideration, granting, refusal and review of parole for prisoners who are serious offenders.

The bill also contains a number of other amendments to enhance the parole system generally. I will outline these changes shortly. First, I propose to spell out in more detail the main changes to the Sentencing Act which will result from this legislation.

At the outset I should make it clear that these amendments are primarily designed to benefit the victims of serious offenders. The term "serious offender" is defined in section 59 of the Prisons Act and has the same meaning in

the Sentencing Act. I do not intend to read out that section. Suffice to say that the expression "serious offender" includes life sentence prisoners, prisoners who are serving a minimum term of twelve years or more, prisoners convicted of murder and individual prisoners who are being managed as serious offenders. The bill provides for a new subdivision to be inserted in the Sentencing Act dealing only with prisoners who are serious offenders.

I should also indicate at this point that the bill provides for the present Offenders Review Board to be re-named the Parole Board to more accurately reflect the function of this statutory body. Savings provisions will ensure that the board will simply continue in existence under its new name with no loss of identity and that the tenure of office of its members is unaffected.

I turn now to the amendments to the Sentencing Act which will empower the victims of serious offenders to make submissions to the Parole Board which the board will be required to consider before finally deciding whether or not a serious offender should be released on parole. In future, before the board makes its final decision on the parole of a serious offender it will be required to provide an opportunity for submissions to be made by the victim of the offender about the making of a parole order in relation to the offender. In this context, a victim has been defined in this bill to mean either the actual victim of an offence committed by the serious offender or a family representative of such a victim if the victim is dead, under any incapacity or is in such circumstances as may be prescribed by the regulations. The submission may be made in writing or verbally or both and can be presented by the victim or family representative, personally or by another person on behalf of the victim with their written consent.

Victims will not be entitled to call or examine witnesses, thereby ensuring that, as far as possible, the hearings will be conducted in a non-adversarial manner.

The bill outlines in some detail the steps which the board will be required to follow both with respect to the giving of preliminary notice of its intention as to parole and subsequently as to the procedures which will occur after notice is received by the board of an intention to make a submission.

The preliminary notice issued by the board must give an indication of the board's initial intention and specify a period of at least fourteen days during which notice of an intention to make submissions to the board may be lodged with the secretary of the board by or on behalf of either the victim or serious offender concerned.

At the end of this period if the board has received notice of an intention to make a submission the board must set a hearing date as soon as practicable thereafter for the purpose of receiving and considering the submissions lodged. A victim who lodges notice of intention will be entitled to be present at such hearing and have a reasonable opportunity to make any relevant submission at the hearing. Following consideration and review of all submissions, whether written or verbal, and other reports and documents placed before it, the board will then be required to make a final decision as to whether or not the prisoner concerned should be released on parole.

I should make it clear that the bill also provides for the serious offender concerned to be able to make submissions to the board in the same way as is proposed for victims. Under the present provisions of the Act, prisoners are entitled to make submissions to the board if the board notifies them that it does not intend to grant parole. This entitlement will continue for serious offenders. In addition, to ensure that the board is only required to hold one public hearing to receive and consider all submissions, whether written or verbal, provision has been made to enable victims to make submissions to the board if they so wish, even when the board's preliminary intention is not to grant

parole to the serious offender concerned. Similarly, the serious offender will be able to make submissions, even if the initial intention of the board is to grant parole.

These provisions will avoid the necessity for the board to hold a second hearing in those cases where, after considering submissions from either the victim or serious offender, it decides to reverse its initial intention. This legislation will ensure that all submissions made to the board are considered at the same hearing, after which the board will be required to decide whether or not to release the serious offender on parole.

The bill also makes provision for the Attorney General or Director of Public Prosecutions to make application to the Court of Criminal Appeal within a period of seven days after the board makes an order for the release of a prisoner on parole, on the ground that the decision of the board was made on information that was false, misleading or irrelevant. This provision is similar to that which currently exists in section 23 for prisoners who are refused parole by the board. If the board makes an order for parole, the order will be suspended and the prisoner will not be released if an application to the court is made within the seven days, until the application is dealt with by the court or is withdrawn. The powers of the court in relation to such applications are set out in the bill and are similar to those currently in the Act in relation to applications by prisoners under section 23.

The end result of this legislation will be to provide a balance to the current situation by ensuring that victims or in certain cases their family representatives are given similar rights to those which are now available to prisoners, to make submissions to the parole board, when the board is considering the parole of a serious offender in the future.

I turn now to the other provisions of the bill relating to parole.

First, the bill makes provision for the board to defer consideration of a prisoner for parole for a period of up to three years at a time after it has last considered that prisoner for parole. Section 18 of the Act presently requires the board to consider whether a prisoner should be released on parole at least sixty days before the day on which the prisoner becomes eligible for parole and, if the prisoner has not been released on parole after that day, within each successive year following that day if the prisoner is then eligible for release on parole. It is proposed that, in future, the board will be able to defer further consideration of such prisoners for a period of up to three years at a time after the first or after any subsequent occasion on which the prisoner is so considered by the board. In other words, the board must still consider prisoners when they first become eligible for parole but may, on that occasion or any subsequent occasion, decide to defer further consideration for up to three years at a time.

There are a number of offenders currently in prison who are unlikely to be granted parole for a variety of reasons, yet the board is still obliged to consider them for parole annually even if there is no reasonable prospect of them being granted parole. This provision will ensure that such offenders must be considered by the board at least every three years but will also ensure that the board will not waste its valuable time by being required to consider all offenders annually.

Secondly, action has also been taken to ensure that the board will not waste its time by being required to consider annually any prisoner whose parole has been revoked but who has not been returned to prison following revocation of the parole order. At present the board must annually consider for parole any prisoner whose parole has been revoked, even if that prisoner remains at large after the

revocation order is made. The board should not have to waste its time by being required to consider for parole a prisoner whose parole has been revoked but who remains at large for whatever reason.

I am advised that the proposals in this bill may impact on the workload of parole officers employed by the Department of Corrective Services. However, I am sure that these officers will deal with these

changes in the capable and professional manner which they now exhibit in their work. Parole officers are often the unacknowledged buffer between inmates and the board. It would be remiss of me if I did not pay special tribute to the essential role they play in the criminal justice system and the outstanding service they provide in support of the board.

The Government has also decided to amend section 447C of the Crimes Act, which deals with victim impact statements, and it is appropriate that these amendments are also included in this bill.

Section 447C was inserted into the Crimes Act by the Crimes Sentencing (Amendment) Act of 1987 to provide a statutory basis for the provision of victim impact statements in the sentencing process. The section provides that after a person has been convicted of an offence and before sentence has been determined, a court may receive particulars of any injury suffered by a victim as a result of the offence. The victim's consent is required before a victim impact statement can be tendered to the court.

While section 447C defines "victim" broadly to include a person against whom the offence was committed, or who was a witness to the act of actual or threatened violence and who has suffered injury as a result of the offence, the definition makes no provision for a situation where, at the time of the conviction, the victim is deceased or otherwise physically incapable of providing a statement. This has been addressed in this bill by the inclusion of a provision to enable victim impact statements to be made by or on behalf of family representatives of deceased victims or victims who are under some incapacity.

To further ensure the protection of victims' rights, it is proposed to amend section 447C to provide that the absence of a victim impact statement is not to give rise to an inference that an offence had little or no impact on a victim.

Finally, an amendment is proposed to section 447C to require the Supreme Court, in its consideration of an application under section 13A of the Sentencing Act, to substitute a minimum and additional term of imprisonment for an existing life sentence, to receive and consider any victim impact statement tendered to it, provided that the statement has been prepared after the imposition of the prisoner's life sentence.

The Department of Corrective Services estimates that there are currently 123 prisoners who are or will become eligible to apply to the Supreme Court for sentence re-determination under the provisions of section 13A of the Sentencing Act.

The Government's proposal to amend and then proclaim section 447C of the Crimes Act represents yet another example of its determination to ensure that the victims of crimes of actual or threatened violence are given every opportunity to bring to the notice of sentencing courts the impact which the crime has had on them and particulars of the injury suffered by them at the hands of the offender concerned.

I turn now to the proposed amendments to the Prisons Act.

The principal amendments to the Prisons Act will require the Serious Offenders Review Council to consider the public interest when exercising certain functions under section 62 of the Act relating to serious offenders. This will also result in a change in the procedure adopted by the council when it intends to make a recommendation to the Commissioner of Corrective Services for a change in the security classification of a serious offender which, if approved by the commissioner, would make that offender eligible for consideration for temporary leave from prison.

Under these amendments the review council will not be able to make such a recommendation to the commissioner until an opportunity has been given for victims to make submissions to the council

about the serious offender and any submissions, which must be in writing, have been considered by the council.

The council will be required to allow a period of at least fourteen days for submissions to be lodged.

As I have said, the council will be specifically required to consider the public interest when exercising certain functions under section 62 of the Act. These functions are to provide advice and make recommendations to the commissioner about the security classification of serious offenders, the placement of serious offenders and developmental programs provided for serious offenders. The bill lists a number of matters to be taken into account by the council when considering the public interest.

Finally, the bill contains a number of amendments of a statute law revision nature, mainly to update the nomenclature of certain positions and various savings and transitional provisions.

I commend the bill.

Debate adjourned on motion by the Hon. K. J. Enderbury.

COMMUNITY PROTECTION BILL

Bill introduced and read a first time.

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [6.21]: I move:

That this bill be now read a second time.

I seek the leave of the House to table my second reading speech and have it incorporated in *Hansard*.

Leave granted.

This Government has always placed the highest priority on the need to provide adequate measures for the protection of the community from violence. For example, it has done so by strengthening a number of provisions aimed at providing that protection from domestic violence, and by strengthening the sentencing laws of this State so that those convicted of violent crimes serve a minimum term of imprisonment which more accurately reflects the gravity of those offences and introduces greater certainty into the sentencing process. The community is thereby assured that a convicted violent offender will not be released before the specified date.

However, the law does not presently provide a mechanism whereby the community can be protected from a potentially violent individual, who is not mentally ill for the purposes of the mental health legislation, and who has not committed a serious offence of violence. Those who come within the definition of "mental illness" in the Mental Health Act 1990 may be involuntarily detained pursuant to that Act. Those who have been charged with the commission of a serious offence of violence are subject to the provisions of the Bail Act 1978, which may authorise the detention of an accused for the protection and welfare of the community. If ultimately a conviction is recorded, such an accused is subject to the imposition of a term of imprisonment by way of penalty.

This bill addresses that inadequacy by providing for a mechanism whereby persons who are more likely than not to commit serious acts of violence may be detained when it is appropriate to do so for the protection of the community. It is the need to protect the community which is the paramount consideration for the introduction of this bill.

This is not a measure which this Government proposes lightly, without due regard to one of the principles underlying the criminal law, namely that deprivation of liberty should only be justified as punishment for a criminal offence actually committed. It is however a necessary measure. The community must be protected from those persons who present a real danger yet are unable to be otherwise lawfully detained. This Government will not shirk that responsibility.

Comparable legislation exists in other jurisdictions such as Victoria, New Zealand and Canada. Those jurisdictions have provisions within their respective sentencing laws which allow for the preventive detention of dangerous persons, once they have been brought before the court for sentence on an existing offence. While this type of legislation has the appearance of preserving the protections afforded to accused persons under the criminal law, it merely uses the fact that the person is before the court for a determinate sentence to embark on exactly the same exercise provided for by this bill, that is, to make a finding that the person represents a danger to the community and to impose an indeterminate sentence accordingly.

This bill recognises that such a device does not allow action to be taken where a person has not yet committed an offence but where it is considered that it is likely that the person will commit a serious act of violence in the immediate future.

The bill makes a clear statement that a prediction of dangerousness can only be made on the balance of probabilities. It will also be a decision taken on the basis of currently known facts. To suggest that a prediction of dangerousness can be made beyond reasonable doubt is a contradiction in terms.

The Government is also at pains to ensure that a person who is sought to be detained under this bill is provided with every opportunity for appropriate treatment and assessment at periodic intervals, so that detention of this nature can only continue for as long as the person remains a danger to the community.

To this end, the bill includes provisions which guarantee that the court maintains a supervisory role with respect to the care and assessment of a detainee. The bill also allows for the re-consideration of a detention order by the Supreme Court and for appeals to the Court of Appeal against a decision to make, or not to make, a detention order.

A person under the age of sixteen years cannot be detained under the legislation. The use of this mechanism to detain juveniles who are amenable to the Childrens Court jurisdiction ought not be countenanced.

Before turning to the provisions of the bill, I wish to make it clear that the rights of persons who may be detained under this legislation have not been ignored. A determined effort has been made to build in as many protections as possible without compromising the purposes of the bill.

To illustrate :

* an application can only be made by the Attorney General

* an application can only be granted by the Supreme Court

* the decision of a single judge can be appealed to the Court of Appeal

* the person against whom proceedings are brought has an absolute entitlement to legal aid

* there are strict time limits regulating the procedures set out in the bill

I turn now to the major features of the bill.

Applications for a preventive detention order can only be made by the Attorney General to a single judge of the Supreme Court in its civil jurisdiction. By restricting the power to make applications under the legislation to the first law officer of the State, the bill recognises the gravity of such an application and the responsibility attendant upon invoking the legislation. An application is commenced by summons, which is to be served on the person the subject of the application. The application may be heard and determined in the person's absence. Any number of applications may be made for a preventive detention order in respect of the same person.

Where the court is satisfied that there are reasonable grounds upon which a preventive detention order may be made it may issue a warrant for the arrest of the person against whom proceedings are pending. A person arrested under such a warrant must be brought before the court as soon as practicable and, in any case, within 72 hours of arrest. This provision facilitates the interim detention of the named person in circumstances where the threat of violence is imminent and the court is persuaded that immediate arrest is justified. The provisions of the Bail Act 1978 do not apply to a person detained under the legislation.

Pending the determination of an application for a preventive detention order, the court may make an interim detention order that the person be detained in a prison for a period not exceeding three months. An interim detention order may only be extended once, on the application of the Attorney General or of the court's own motion, up to a further three months. The interim detention order may be made to enable the person to be medically, psychiatrically and/or psychologically examined, or to enable such reports to be prepared with respect to the person's condition, or to enable other proceedings to be brought for the purpose of committing the person to another form of custody, for example, proceedings under the mental health legislation, where there is a prospect that the person is mentally ill.

On the hearing of an application for a preventive detention order, the court may order that the person be detained for a period from six months up to twenty-four months, if it is satisfied on reasonable grounds on the balance of probabilities that :

* the person is more likely than not to commit a serious act of violence and

* it is appropriate for the protection of a particular person or persons or the community generally that the person be held in custody.

"Serious act of violence" is defined in the bill to mean an act of violence that has a real likelihood of causing death or serious injury to another person, or that involves a serious sexual assault by reference in the bill to certain offences under the Crimes Act 1900.

An interim detention order or a preventive detention order may be made subject to such conditions as the court may determine. This includes a condition specifying the particular prison in which the person is to be detained, which would include a prison with hospital facilities administered by the corrections health service. When this provision is read together with other provisions in the bill which provide for the assessment and treatment of the detainee it becomes clear that the court is capable of playing an invaluable role in monitoring the need for detention to continue.

Specifically, the bill provides that as soon as a preventive detention order is made the court must

appoint one or more medical practitioners, psychiatrists or psychologists as assessors, to observe and report on the detainee during the period of the order. At any time while a detention order, including an interim detention order, is in force, the court may order the Commissioner for Corrective Services to make medical, psychiatric or psychological treatment available to the detainee. The court has broad powers in any proceedings under the legislation to order:

* the production of any documents it considers appropriate

* an examination of the person by one or more medical practitioners, psychiatrists or psychologists

* the preparation of reports as to the person's condition and progress.

In any proceedings under the legislation, the court must have regard to any report made available to it.

The bill also mandates the preparation of reports by the assessors and the Commissioner for Corrective Services for the Attorney General, at least once during a preventive detention order and whenever else the Attorney General requires. Such reports must contain particulars with respect to :

* the general behaviour of the detainee

* an opinion as to whether or not the detainee is still more likely than not to commit a serious act of violence

* an opinion as to whether or not it is still appropriate, for the protection of the community, that the person be detained

* an opinion as to whether the detainee should be transferred to another prison.

A report from an assessor to the Attorney General must also contain particulars with respect to :

* a description of the detainee's current medical, psychiatric and psychological condition

* a description of any treatment made available to the detainee

* a description of any treatment undergone by the detainee and

* an opinion as to whether any treatment should be made available to the detainee.

Provision exists for the reduction or revocation of a preventive detention order on the application of the Attorney General or the detainee. Any number of such applications may be made. There is no onus on the applicant to prove on the balance of probabilities that the reduction or revocation of the order by the court is warranted. The court would have to be satisfied that the application should be granted.

A detainee must be released at the expiration of a detention order, unless there is a lawful reason for continuing to hold the detainee.

The bill also provides for proceedings to be conducted in camera, in whole or in part, and for orders prohibiting the publication of information which is likely to identify any person involved in the proceedings. The right of any party to appear, call witnesses, give evidence, cross-examine or make submissions is expressly preserved by the bill.

Finally, a right of appeal lies to the Court of Appeal against any determination of the court to make, or refuse to make, a preventive detention order. The bill also guarantees legal aid for or in connection with proceedings brought against the person.

Mr President, the Government is satisfied that the bill strikes a sensible balance between the rights of the individual and the legitimate expectation of the community to be protected from serious acts of violence. In bringing forward this bill, the Government has made clear its commitment to providing a mechanism whereby the community can be protected, while ensuring that a detained person can adequately defend themselves before the superior court of this State.

I commend the bill.

Debate adjourned on motion by the Hon. K. J. Enderbury.

CRIMES (DANGEROUS DRIVING OFFENCES) AMENDMENT BILL

TRAFFIC (NEGLIGENT DRIVING OFFENCES) AMENDMENT BILL

Bills introduced and read a first time.

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [6.22]: I move:

That these bills be now read a second time.

I seek leave of the House to table my second reading speech and have it incorporated in *Hansard*.

Leave granted.

On 7 April 1992, following the death of a cyclist in a hit and run crash, a call was made for a review of the provisions for criminal offences associated with driving in New South Wales and, in particular, a review of the adequacy and effectiveness of the offence of `culpable driving' under section 52A of the Crimes Act 1900.

On 9 April 1992, I requested the Staysafe committee to review the offences in the Crimes Act 1900 which could be used where a driver killed or inflicted a serious injury on another person as a result of a road crash. In particular, the committee was asked to assess the adequacy of the penalty structure that existed for the offence of `culpable driving'.

The terms of reference adopted for the inquiry were:

(1) an examination of whether there are sufficient offences presently available to enable courts to adequately deal with persons charged with occasioning death or grievous bodily harm arising out of the use of a motor vehicle.

(2) A determination of whether the existing penalties under the Crimes Act 1900 section 52A were adequate to punish convicted offenders;

(3) whether there are sufficient policies and practices presently available to effectively deal with the effects of road trauma on survivors, their family and friends, and on the offenders themselves, where death or serious injury has arisen out of the use of a motor vehicle.

On 10 March 1994, "Staysafe 25", the report of the Staysafe committee on the offence of culpable driving under section 52A of the Crimes Act, was tabled in Parliament.

In preparing the report, the Staysafe committee canvassed widely and sought the views of the community. Following the report's release, officers in my department also undertook further consultation with members of the legal profession, as well as other government departments and agencies.

Driving offences date back to the time when the first cars on the road had to be preceded by a person carrying a red flag as a warning. Offences were based on the concept of negligence and were introduced in the Motor Traffic Act 1909. In 1951, it became necessary to amend the Motor Traffic Act to draw a distinction between driving negligently and driving in a manner dangerous to the public.

Up until this time, dangerous driving occasioning death was prosecuted as manslaughter and proved notoriously difficult to prosecute successfully. As the offence carried a maximum sentence of 25 years imprisonment, juries were reluctant to find a person guilty of this offence.

As a result, a new section 52A, which created the offence of culpable driving, was introduced into the Crimes Act 1900 in 1951. The maximum sentence for culpable driving was, and still is, 5 years imprisonment where death is occasioned and three years imprisonment where grievous bodily harm is occasioned.

Various amendments have been made to the section since its introduction. The section itself has been the subject of comment by the New South Wales Court of Criminal Appeal. Indeed, some of the proposals before you today give effect to these comments and interpretations.

Importantly, however, despite a large increase in road traffic and an equally large increase in the road toll, the penalties for culpable driving have remained unchanged.

In this respect, it is clear that one of the major problems with the legislation as it presently stands is that it fails to act as a strong deterrent. Almost every day there are reports in the media of yet another death on the road arising out of the actions of a driver who is either under the influence of alcohol and/or driving in a manner or at a speed which is dangerous to other persons.

In many cases the drivers and those killed or injured are young people or children. This is a senseless waste of young lives. The Government is of the view that there is a need to send a strong message to the community that dangerous driving, wherever it occurs, will not be tolerated.

The need for general deterrence was recognised by Mr Justice Carruthers in the matter of *R v Trevor Brian Garlick*, a recent decision of the New South Wales Court of Criminal Appeal. After referring to statistics on sentences for culpable driving, His Honour commented:

> "The statistics to which I have made reference, in general, and this case in particular, provide abundant evidence that this matter requires the urgent attention of the Legislature. The maximum penalties are so low that it leaves a sentencing judge with insufficient scope for what may be thought to be an appropriate penalty for the offence which has been committed".

A further problem with the current legislation is that it is too restrictive in application. For example, the offence is restricted to those incidents which occur on the highway, so that any offence committed on private roads is excluded. A second example is that the offence applies only to situations where the vehicle involved is a motor vehicle, thereby excluding all other types of vehicles.

The legislation is particularly restrictive in its requirement that the vehicle of the accused driver be actually involved in the impact which occasions death or grievous bodily harm. Thus if a person drives in a dangerous manner and causes other vehicles to impact, and death or grievous bodily harm ensues, that driver cannot, at present, be charged under section 52A.

These are all artificial distinctions and, as a result, there is a disparity in sentences imposed. These distinctions have resulted in persons being charged with lesser offences than section 52A.

This bill seeks to address all of the above shortcomings. The bill increases the maximum applicable penalties, providing for even higher maximum penalties where aggravating circumstances exist, removes the artificial distinctions I have outlined, and recasts the section so that the offence may be more easily understood by the community. I turn now to the detail of the bill.

The first change is to re-name the offence `dangerous driving'. This is because the community has had difficulty with the meaning of the term `culpable driving'. This change will more effectively communicate the specifics of the offence.

The most important and wide-ranging proposals, however, are those which concern the penalties for dangerous driving. It is proposed that the maximum penalties be increased to more accurately reflect the seriousness of this offence and its relationship to the offence of manslaughter.

The current maximum penalties of 5 years for dangerous driving occasioning death and 3 years for dangerous driving occasioning grievous bodily harm are not only inadequate for the offences charged, but are also too far removed, considering their relative seriousness, from the maximum penalty of 25 years for manslaughter.

The bill will therefore increase the maximum penalty for dangerous driving occasioning death to 10 years imprisonment and the maximum penalty for dangerous driving occasioning grievous bodily harm to 7 years imprisonment.

It is also proposed that this maximum penalty should be further increased by up to four years if one or more of the following aggravating conditions exists:

(1) the driver is found to have a blood-alcohol reading of .15Gms/100mls or higher, or

(2) the driver is detected driving at a speed in excess of 45kph above the posted speed limit, or

(3) the death or serious injury to another person was caused by the driver of a vehicle attempting to escape a police pursuit.

The effect of this proposal is that a driver who drives dangerously in one or more of these aggravating circumstances faces a maximum of 14 years imprisonment if a death is occasioned and 11 years if grievous bodily harm is occasioned.

If an accused is indicted with the offence of aggravated dangerous driving occasioning death, and the jury finds that the dangerous driving is proved but the aggravating circumstances are not proved beyond reasonable doubt, then it is open to the jury to find the accused guilty of the lesser offence of dangerous driving causing death. This applies similarly to the offence of aggravated dangerous driving occasioning grievous bodily harm.

These penalty increases will bring New South Wales in line with other Australian States where similar maximum penalties and increases in the presence of aggravating circumstances already exist. Indeed, with many persons driving across State borders, it is desirable that the maximum penalties for

these offences be similar regardless of the State in which the offence occurs. The maximum penalties will also act as a strong deterrent to this type of offence.

I referred earlier to section 52A being too narrow in its application. The bill seeks to address the resulting problems.

The section, as it is currently drafted, requires that the vehicle of the person who drives dangerously must be subsequently involved in the impact where death or grievous bodily harm is occasioned to another person.

There are, however, occasions where a driver's vehicle causes an impact between other vehicles or between another vehicle and an object or person but his or her vehicle is not involved in the impact.

If this situation occurs, and the driver is either intoxicated or is driving in a manner or at a speed which is dangerous to another person, the driver should not be treated any differently from one whose vehicle is involved in the impact. Indeed, in many ways the offence is worse because the driver has caused other law-abiding drivers to be involved in an impact which occasioned death or grievous bodily harm, the physical and emotional effects of which may remain with those drivers all their lives. In the meantime, the offending driver has escaped injury to himself or herself as well as his or her vehicle.

The bill therefore removes the requirement that the driver's car be involved in the impact. Thus a person may still be liable even though his or her vehicle is not involved in the impact. The onus will be on the prosecution to prove beyond reasonable doubt that the accused driver's vehicle did cause the other vehicles or a vehicle and an object or person, to impact, and death or grievous bodily harm to another person was occasioned.

The bill removes reference to `highway'. The Court of Criminal Appeal has held on several occasions that the section is not restricted to collisions on the highway. This amendment is, therefore, an example of the Government giving effect to interpretations of the law by the appellate courts.

The distinction between a death occasioned by dangerous driving on the highway, and a death occasioned by dangerous driving on a private road, is also removed. Dangerous driving occasioning death or serious injury should receive the same penalty whether it occurs on the highway, within school grounds, in large shopping centre car-parks or on any other private road. References to "highway" have therefore been replaced by "road". "Road" will mean any street, lane, thoroughfare, footpath or place that is not a public street. This definition appears in clause (9).

A further issue raised by the appellate courts is the use of the expression `the public' as in `driving in a manner dangerous to the public'. In the matter of R v S (1991) 22 NSWLR 549 the Court of Criminal Appeal said:

> "In circumstances where it is proper to regard the activity which is said to constitute driving in a manner dangerous as part of a joint escapade on the part of the driver and the passengers, they being the only persons endangered in the activity, then I would not regard it as proper to characterise the passengers as "the public" . . .
>
> . . . It may be thought unsatisfactory that there is room for doubt in individual cases, but this is the necessary consequence of the use by the Legislature of the expression `a manner dangerous to the public' rather than `a manner dangerous to any person'."

On this basis, it is proposed that the bill replace the words `the public' with `another person'.

As indicated earlier, section 52A is restricted to collisions involving motor vehicles. The term "motor vehicle", wherever it appears, will now be replaced by "vehicle". This will mean that the offence may be committed by a driver of any mechanical or horse-driven vehicle. The artificial distinction between driving a motor vehicle dangerously where death or grievous bodily harm is occasioned and driving some other vehicle dangerously where death or grievous bodily harm is occasioned, is thus removed. A definition of "vehicle" is included in the definitions in clause (9).

Finally, the section currently requires the prosecution to prove that a driver was "under the influence of intoxicating liquor". This bill provides that a blood-alcohol level of .15 grammes per 100 millilitres, which is referred to as the "prescribed concentration of alcohol", is to be accepted as conclusive proof of intoxication and that only where the blood alcohol reading is below this figure should the prosecution be required to prove intoxication.

The provisions of the bill in respect of proof of intoxication is in line with provisions which already exist in the Traffic Act 1909, and is capable of being rebutted by the defence as provided in clause 52A(3)(b).

There is a great deal of scientific evidence which supports the view that a person with a blood alcohol reading at this level or above is intoxicated and is 7 times more likely to have an accident than a person with no alcohol in his or her blood. To put the blood alcohol reading in context, this is the level at which a person would be in the high prescribed concentrate alcohol range for traffic offences under the Traffic Act.

By cognate amendment, section 4(3)(a) of the Traffic Act 1909 is to be amended by the Traffic (Driving Offences) Amendment Bill 1994.

This bill proposes that the present negligent driving provision will remain, with a maximum penalty of $500 fine and/or 6 months imprisonment. However, the bill introduces two new offences - negligent driving occasioning death and negligent driving occasioning grievous bodily harm. The maximum penalties for these offences will be a fine of 20 penalty units ($2000) and/or 12 months imprisonment where death is occasioned and a fine of 15 penalty units ($1500) and/or 6 months imprisonment where grievous bodily harm is occasioned.

The end result of all these reforms will be a more appropriate scale of penalties. Thus in increasing levels of seriousness, the first offence is negligent driving simpliciter, followed by negligent driving occasioning death or grievous bodily harm and then dangerous driving occasioning death or grievous bodily harm. The most serious offence is, of course, that of manslaughter.

The effect of the reforms proposed by this bill is to overcome the perceived problems with the existing legislation. This bill will provide a stronger deterrent against these type of offences. In particular, the Government is sending a message to the community and to the courts that dangerous driving which kills or maims will be severely punished wherever and whenever it occurs.

I commend the bills.

Debate adjourned on motion by the Hon. K. J. Enderbury.

CRIMES (PROHIBITED MATERIAL) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [6.23]: I move:

That this bill be now read a second time.

I seek leave of the House to table my second reading speech and have it incorporated in *Hansard*.

Leave granted.

This Government has introduced a number of measures relating to censorship issues, including the introduction of the new "MA" classification for films and videos and a scheme for the regulation of computer games. The Crimes (Prohibited Material) Amendment Bill 1994 represents another of the Government's initiatives in this area in response to the International Year of the Family. The proposed bill prohibits the possession of refused classification material, that is, material of an extreme nature, including depictions of child sexual abuse or children engaged in sexual activity; bestiality and other material which incites or encourages crime, violence, or drug abuse.

The introduction of an offence for the possession of "child pornography", as it is commonly termed, accords with the recommendations of the Australian Bureau of Criminal Intelligence in its 1993 report "Paedophiles and Child Sexual Abuse". In extending the offence to also cover other refused classification material, the Government aims to further limit the availability of material containing extremely violent or sexually coercive matter or material which instructs in criminal activity or drug abuse. The proposed offence provides for a penalty of up to $10,000, 12 months' imprisonment, or both.

The proposed legislation will complement existing provisions contained in the New South Wales Crimes Act, which make it an offence to employ or procure a child to be employed for pornographic purposes. More importantly, the proposed legislation will assist police in taking action against paedophiles. Previously, police have largely relied upon powers in Customs legislation to seize child pornography and other refused classification material, where it could be proved that the material had been illegally imported into Australia. However, these powers are limited as it is not possible to prosecute for possession of copies of imported material. Repeat offenders have therefore not been deterred by existing laws.

The bill provides that material suspected of falling within the refused classification category must be classified by the Office of Film and Literature Classification before police can bring a prosecution. That office currently

classifies material in relation to the sale, advertising or publication of films, videos, publications and computer games and it is considered preferable that the office continue this role in relation to the possession. This will mean that the courts will not be placed in the position of having to act as censor. This approach also ensures there is a degree of consistency in determining whether material falls within the refused classification category.

The bill also amends existing censorship legislation in New South Wales for the purpose of clarifying the censor's discretion in determining whether material constitutes "child pornography". The present legislation refers to material which depicts "a person who is, or is apparently, under the age of 16 years". These words have been replaced with a reference to "a child, or a person, who in the opinion of the censor, looks like a child". This change is intended to clarify the censor's discretion in refusing material where it is difficult to determine the age of the person depicted. This provision is particularly relevant in light of the increasing amount of material of this nature which is being imported from overseas.

Finally, the bill provides for an increase in the age of a child for the purposes of child pornography

from 16 to 18 years of age. In order to maintain consistency in the classification scheme, it is intended that the provisions setting out this change not be commenced until such time as all jurisdictions have agreed to adopt a similar approach. I will be discussing this matter with other State and Territory Ministers responsible for censorship at the next meeting of the Standing Committee of Attorneys General scheduled for later this year.

I commend the bill to the House.

Debate adjourned on motion by the Hon. K. J. Enderbury.

ARCHITECTS BILL

Bill introduced and read a first time.

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [6.24]: I move:

That this bill be now read a second time.

I seek leave of the House to have my second reading speech incorporated in *Hansard*.

Leave granted.

The purpose of the Architects Bill is to repeal the Architects Act 1921 and replace it with a new Act to regulate the architectural profession in New South Wales, to promote national uniformity in the regulation of architects, to introduce a new Register of Architectural Practices, to expand and update the provisions for registration and deregistration and the investigation of complaints, and to improve the professional standards of architects.

To achieve this the Architects Bill will replace the existing legislation with a comprehensive and up to date set of provisions for the regulation of the architectural profession in New South Wales.

The bill results from a comprehensive review of the Architects Act 1921 by the New South Wales Government and the Board of Architects.

Architecture, the quality of buildings and the urban environment, respect for the cultural heritage are matters of significant public interest. The profession of architecture has ancient origins and it remains today fundamental to growth and development in the community.

In view of the long training needed to acquire the complex skills necessary for competence in the practice of architecture some form of regulation of the profession has been in force in most countries for many years.

In New South Wales, the existing legislation, the Architects Act 1921, came into force in 1922. Before 1922 there was no legal regulation of architects in New South Wales. The Act established a Board of Architects of 10 members drawn from the profession, government and the universities. The board is the statutory professional body regulating the profession of architecture in New South Wales.

The existing legislation has served the profession of architecture and the community for over 70 years. The aims of the Act are to maintain high architectural standards and to protect the community. These aims will be continued and strengthened by the new proposed legislation.

The Board of Architects is presently both a registering body and a disciplinary authority. The board maintains the register of architects. For an architect to be registered, he or she must satisfy educational, professional and good character requirements. An architect may be removed from the register if the architect is convicted of a serious offence under the criminal law, or is guilty of "improper conduct in a professional respect" as defined in the Act. That definition embraces primarily fraudulent or unethical conduct. The existing legislation provides for complaints against architects to be heard by the Board of Architects. The board may also, of its own motion, conduct an inquiry into the conduct or practice of an architect. Where a finding of improper conduct is made by the board, the board is empowered to reprimand the architect, impose a fine not exceeding $200, or remove the architect's name from the register. An architect, but not a complainant, may appeal to the District Court against a decision of the board.

To promote national uniformity in the regulation of architects, all State and Territory architects registration boards were consulted by the Board of Architects throughout the course of review of the existing legislation and, where possible, a consensus position was incorporated in the drafting of the bill with respect to provisions for registration and disciplinary proceedings.

A characteristic of architectural practice, in Australia as elsewhere perhaps unparalleled by other professions, is the degree of interstate mobility of many practices. In Australia architects often undertake projects in adjacent States whilst the larger practices may be national in scope. Ten per cent of architects registered in New South Wales are residents of other States and a comparable number of New South Wales resident architects maintain registration in another State.

The Board of Architects is one of the nominating bodies of the Architects Accreditation Council of Australia, the national body created by State and Territory Architects Registration Boards and the Royal Australian Institute of Architects to deal with recognition and regulatory issues which require national response. The Architects Accreditation Council of Australia plays a major role in maintaining uniformity or registration standards between the autonomous State and Territory authorities.

In Australia the accreditation of courses of study, recognition of qualifications in architecture and examination of practical experience for the purpose of professional recognition, are conducted on a national basis and State and Territory registration requirements for architects are generally uniform throughout Australia and registration in one State is qualification for registration in another.

The Architects Accreditation Council of Australia has produced and endorsed legislative guidelines for a national model Act for the registration of architects. These guidelines have been favourably reviewed by the Trade Practices Commission. The provisions of the Bill are based upon those guidelines.

The national adoption of those guidelines will strengthen the reciprocity which already exists for the registration of architects between all States and Territories in Australia and will in turn be reinforced by the Mutual Recognition Acts.

Mr President, I wish to briefly refer to the Mutual Recognition Acts which commenced in January 1993. This package of complementary Federal and State legislation enables architects, lawyers, accountants and others to move interstate and carry on practice in the new State without satisfying any further legal requirements. I can indicate to honourable members that the Mutual Recognition Act does not affect the wording of the Architects Bill and that the mutual recognition of the qualifications and registration of architects will be provided for by both the Architects Bill and the Mutual Recognition Acts.

Mr President, I now turn to one of the important innovations contained in the bill. The bill establishes a new and separate register of all practices entitled to use the description architects, including sole practitioners, so that they may be immediately identified both by the Board of Architects and by members of the public.

The new Register of Architectural Practices will identify the architects in a practice who are responsible for the provision of architectural services, will prohibit the improper use of the title "architect" by architectural practices, and will authorise the requirement that professional indemnity insurance be held by all architectural practices.

The intention of those provisions of the bill is to ensure that when members of the public commission an architect, whether an individual or a firm, they will obtain the services of an architect. This is neither guaranteed nor required by the present legislation.

At present all States and Territories in Australia, except New South Wales and Tasmania, maintain separate registers of corporate or other architectural practices.

In the case of architects practising under their own name or names the board or members of the public may identify an architect in the practice through the register of architects. Where the practice name does not contain the names of registered persons it is essential to have an immediate means of identifying architect principals in the practice.

Architectural practices as well as architects will be required to renew registration annually. It is proposed that the regulation will provide that, as a requirement for annual renewal of registration, the principal of an architectural practice will be required to certify that all architectural work during the previous annual period has been controlled by an architect principal. The bill requires that the names of all architect principals of an architectural practice are to be listed on practice stationery.

Both architects and architectural practices will be required to renew registration annually. It is proposed that regulations under the new Act will provide that as a requirement for annual renewal of registration.

In New South Wales, as in the other States and Territories of Australia, the architectural profession is regulated through statutory restriction of use of the title architect and its derivatives by registration, to those whose education and training are of a standard to enable them to provide architectural services of an acceptable quality. This form of regulatory control differs fundamentally from the usual concept of business licensing in that there is not control over the right to practise in the field of architecture.

Neither the current Act not the proposed amendments prevent anyone from designing buildings provided they do not call themselves architects if they are not registered. An architect is defined as a person whose name is on the register of architects.

Similarly an architectural practice is defined as a practice on the register of architectural practices.

Architects carry a heavy financial and technical responsibility for their clients and need to be properly trained to do so. Many users of architectural services know little of the dangers involved in connection with the design, construction, enlargement or alteration of buildings. There is a wide variety of building consultants to choose from and the risk to the public is unacceptable if unqualified or inexperienced people are commissioned in ignorance to do work for which they are not adequately trained.

Without adequate and relevant provisions for the regulation of professional standards as a condition of the registration of architects, it would often not be possible for the users of architectural

services to distinguish the competent from the possibly incompetent provider of such services.

The bill will require architects to comply with a prescribed professional conduct code, and it will expand the scope for investigation by the Board of Architects of complaints of professional misconduct by architects. The bill does this by extending the definition of professional misconduct to include matters relating to incompetence or negligence as well as matters of integrity, by introducing a process of conciliation between parties as an alternative to a formal hearing by a new tribunal to be set up under the bill.

The new tribunal, to be called the New South Wales Architects Tribunal, will undertake formal hearings and an extended range of penalties will be available to it.

Mr President, I now deal with each of these aspects of the new legislation. Architects must exercise aesthetic and technical judgment, be proficient in drawing, understand finance and employ creative and managerial skills. They also have responsibility for the co-ordination of other specialists in the design/construction process.

Central to the concept of occupational regulation through control of the use of a professional title is the determination and maintenance of standards of training and conduct which both define the occupation and those who practise it. There is little doubt that registration of architects has been an important factor in the development of high architectural standards in Australia.

The professional code of conduct will be included in the regulations under the proposed Act and that it will deal with matters such as competence, fairness, truthfulness of professional opinions and conflicts of interest.

Under the present legislation, the issue of the conduct in professional regulation focuses on fraudulent or unethical conduct, as defined by a list of prohibited practices, for which an offending architect might be punished by fine or revocation of registration. However, many of the complaints against architects which are referred to the Board of Architects involve allegations of negligence or at least reflect dissatisfaction of a client with an architect's performance.

If statutory control of the title architect is to be fully effective it should indicate not only a minimum level of training but the expectation of a reasonable standard of care and competence.

The provisions of the bill are based on the Model Architects Act Legislative Guidelines adopted by the Architects Accreditation Council of Australia in August 1992.

Under the bill professional indemnity insurance, as prescribed by regulations, will be a requirement for the annual renewal of registration both by sole practitioners and by architectural practices.

It is proposed that the minimum requirements for mandatory professional indemnity cover would include that secure local insurers to be used, that policy terms include an adequate level of cover and proper provisions to ensure that the potential liability of architects to their clients is fully indemnified by the insurer.

The minimum sum insured would be determined by the board from time to time, in order to ensure that the level of cover maintains pace with the potential liability.

In the bill, therefore, the concept of unacceptable professional conduct is extended, to include conduct that involves a substantial or consistent failure to reach reasonable standards of professional

competence and conduct involving a contravention of the professional conduct code as well as matters of integrity.

With the extension of the concept of unacceptable professional conduct to cover failure to achieve professional standards as well as fraudulent conduct, the disciplinary functions of the Board of Architects have been transferred to the new architects tribunal.

The bill provides for the Board of Architects to conduct an initial investigation into any complaint that an architect has provided a service to the public of a standard lower than that generally considered by the profession to be a reasonable minimum standard of service, or that he or she has fallen below the ethical standards expected by the consumer and the profession and to reject complaints which it considers to be without substance.

All other complaints must be either referred to the architects tribunal for hearing or, where the complaint involves a dispute between the complainant and an architect or practice and the complainant seeks redress from architect or practice, the Board of Architects may appoint a conciliator to assist the complainant and architect to reach a settlement of the complaint. The conciliation procedure may be used whether or not the complaint involves an allegation of unacceptable professional conduct. If this process is unsuccessful the complaint is to be referred back to the board for resolution, or subsequent referral to the architects tribunal.

The architects tribunal will be empowered to hear all complaints involving unsatisfactory professional conduct by architects, as referred to it by the Board of Architects.

The range of penalties available to the architects tribunal will be wider that those under the existing legislation. Those penalties include a caution or reprimand, a fine of up to $10,000 for an individual architect or $20,000 for an architect principal in a registered architectural practice, suspension or cancellation of the registration of architects, including architect principals engaged in an architectural practice, suspension or cancellation of the registration of architectural practices and conditions on the re-registration of architects or practices whose registration has been cancelled.

Any party to the hearing of a complaint by the architects tribunal, which includes the complainant, the architect, and the board may appeal to the District Court against a finding or order by the tribunal.

Because rigid criteria cannot be applied to professional standards, which will vary with changes in technology and practice, it follows that these matters should be properly considered by a practitioner's professional peers. It is equally important that consumer representatives participate in the assessment of complaints against architects or architectural practices which have been brought by consumers. Finally, given the range of penalties which the tribunal may impose, and the serious consequences on affected persons, it is essential that the tribunal include legally qualified members. The architects tribunal, which is independent of the Board of Architects, will comprise at least six members, with equal representation of architects, legal practitioners and "lay" persons. The president of the tribunal will be appointed by the Minister for Public Works.

Legal representation of all parties will be permitted at any hearing before the architects tribunal where the tribunal considers that there is a real possibility that the registration of the architect or an architectural practice may be suspended or cancelled if the complaint is found to be proved. Otherwise legal representation is only allowed with the leave of the tribunal.

Mr President, I turn now to the matter of continuing professional development. This may be described as systematic maintenance, improvement and broadening of knowledge and skill and the development of personal qualities necessary for the execution of professional and technical duties throughout the practitioner's working life.

There has long been awareness of the importance of continuing education but many professions now believe that a more determined and systematic approach should be adopted. In the interests of improved performance and consumer protection there is an increasing public and government recognition of the need for all professionals to keep up to date in appropriate areas of practice throughout their careers. Continuing education is an important tool in risk minimisation and the containment of professional liability.

It is accepted that practice itself is a continuous learning experience. However, obligatory continuing professional development is defined as a systematic and structured commitment to pre-determined professional goals. To ensure that professional development appropriate to best practice in the field of architecture is undertaken by all practising architects, it is to be introduced as a statutory obligation for all architects and as a condition of continued registration.

In order to maintain the professional relevance of the program, the detailed requirements for continuing professional development will be determined by the Board of Architects from time to time and notified to all architects.

Mr President, turning now to the constitution of the Board of Architects, it is proposed that the board be composed of eleven members, instead of ten as at present.

The present board has membership in part ex-officio, in part by ministerial appointment, in part by appointment by educational institutions and in part by election. These arrangements are satisfactory and will continue. The only new provision is for two consumer representatives and one architect to be appointed by the Minister for Public Works in place of one architect and one non-architect appointed under the existing legislation.

The present four-year term of office is satisfactory in administrative terms and will continue, although as a matter of policy, the academic appointments are staggered to provide continuity.

So far as Government funding is concerned, I can assure honourable members that there will be no financial impact on Government funds. The board is and will continue to be funded by registration fees and not by Government grant.

Mr President, the bill will protect and strengthen the interests of the profession of architecture and the consumers of architectural services.

I commend the bill.

Debate adjourned on motion by the Hon. K. J. Enderbury.

NEW SOUTH WALES CANCER COUNCIL BILL

Bill introduced and read a first time.

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [6.25]: I move:

That this bill be now read a second time.

I seek leave of the House to table my second reading speech and have it incorporated in *Hansard*.

Leave granted.

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The purpose of the bill is to repeal the New South Wales State Cancer Council Act 1955 and replace it with updated legislation which more properly reflects the independent status of the Council and the changes which have occurred in the nature and scope of the Council's operations since the Act was last amended in 1982.

With the exception of those matters to be detailed shortly the provisions of the 1955 Act are essentially re-enacted by the bill. The bill does not alter the status of the Council or its position in relation to the New South Wales Health Administration. The Council will continue to operate as a statutory body and will continue to provide an annual report to Parliament through the Minister for Health. The Council will also continue to be subject to existing review and audit requirements.

At the time the New South Wales State Cancer Council was established in 1955, it was predominantly a scientific organisation created to provide medical services and to conduct research and this is reflected in the current provisions relating to the objects and membership of the Council.

In 1985, following an independent review of the services provided by the Council and the New South Wales Health Department, the Council implemented a major administrative and managerial re-organisation which resulted in a shift away from direct participation in medical and research activities and a move instead to take a leading role in the promotion of cancer research, health education, fundraising and patient welfare.

While the Council has continued to extend itself further in these new roles the Act has retained a medico scientific bias in both its objectives and management structure and is now anachronistic to the point of hindering the proper operation and current purposes of the organisation.

Clause 5 of the bill expands and makes certain revisions to the statutory objects of the Council for the following purposes:

- to clarify the Council's role in providing relief for cancer patients and their families by means of advocacy and support services and to engage in other benevolent activities with respect to cancer;

- to clarify the Council's role in the co-ordination of cancer services in New South Wales by specifically enabling it to co-ordinate, with the agreement of the bodies concerned, the activities of various organisations conducting public appeals for funds with respect to cancer;

- to enable the Council to collect, process, maintain and disseminate information with respect to cancer and its causes and incidence; and

- to define the Council's fundraising activities to include the sale of articles to the public in line with the Council's successful merchandising program.

These changes give legislative recognition to existing practices of the Council, further reflecting its movement from medical research to patient support and fundraising.

Mr President, the bill also replaces the existing governing body of the Council with a revised Board and creates a new mechanism for selection and appointment of these members.

Section 5 of the 1955 Act requires the majority of Council members to be drawn from the fields of medicine and academic research. Three of the members must be professors from the medical

faculties of the Universities of Sydney, New South Wales and Newcastle as nominated by the senate of each university, one member is nominated by the New South Wales Branch of the Australian Medical Association and one is an officer of the New South Wales Department of Health. The other four members are nominated by the Minister for Health from various generalised categories.

Clause 6 of the bill provides for the Council to have a new Board consisting of nine part-time members appointed by the Governor on the recommendation of an appointments committee. The Board will continue to have the same duties and obligations as the existing Council under the current Act. The new provisions only alter the categories from which candidates for appointment to the board may be considered in order to better represent its increasing financial and management role.

The categories from which members of the Board are to be drawn include:

- scientists with experience in conducting medical research;
- persons with legal qualifications;
- business representatives;
- medical practitioners with experience in cancer therapies or treatments;
- persons with experience in education, advertising or communications professions;
- persons with expertise or experience in disease prevention and/or health promotion or patient advocacy.

At least one of the members must be a medical practitioner. The categories are intentionally broad and are designed not to be exhaustive in order to allow the committee a much greater flexibility in choosing the most appropriate persons. They will not prevent the appointment of any other person the Committee considers appropriate, due to their experience or qualifications in an area of activity or interest to the Council at any given time.

The term of office of members of the new Board will be 3 years, with no member to be appointed for more than three such terms.

As previously indicated, Board members are to be appointed and, in the event of misconduct, may be dismissed by the Governor on the recommendation of an appointments committee.

Clause 7 provides for the establishment of a Cancer Council Appointments Committee which is to be responsible for making recommendations to the Governor regarding the appointment or removal of members of the Board.

This 5 member committee is to be appointed by the Governor and will include the Minister or a nominee of the Minister, and 4 other members to be selected by the Minister from the following categories:

- a Chancellor of a University within New South Wales as nominated by the Australian Vice-Chancellors' Association;
- the President of the Institute of Chartered Accountants of New South Wales or a nominee of the President;
- The President of the Law Society of New South Wales or a nominee of the President;

- The President of the New South Wales Bar Association or a nominee of the President
- the President of the New South Wales Division of the Australian Institute of Company Directors or a nominee of the President;
- a member nominated by the Clinical Oncological Society of Australia;
- a member nominated by the National Health and Medical Research Council;
- the President of the New South Wales Chamber of Commerce or a nominee of the President; and
- the Director of the New South Wales Division of the Australian Institute of Managers or a nominee of the Director.

The intention is that the members of the committee will not be appointed to act on behalf of the various organisations that they represent but as members of the community at large.

A number of miscellaneous amendments to standardise provisions in relation to the duties and immunities of the members of both the Board of the Council and the Appointments Committee in line with other similar pieces of legislation are also included in the Bill.

Mr President, the Bill removes provisions in the 1955 Act related to the investigation of bogus cancer cures as more appropriate measures are now in place to address issues of public health and safety in this regard.

Section 10A of the 1955 Act provides for the establishment of a Cancer Investigation Committee with Royal Commission powers. This allows the Committee to summon witnesses and receive evidence, in addition to providing investigatory powers under certain circumstances involving the manufacture, selling, and distribution of substances which are claimed to have curative powers when taken for the treatment of cancer. A Cancer Investigation Committee also has the power to investigate persons not legally qualified as medical practitioners who claim to be able to diagnose, treat, or alleviate cancer.

The inclusion of these provisions was clearly seen as necessary at the time to protect the public from unscrupulous persons who claim to be able to cure cancer. However, this is no longer the case. There is now comprehensive Commonwealth and New South Wales legislation regulating the manufacture and sale of therapeutic goods, and the New South Wales Medical Practice Act 1992 deals with persons who claim to be able to cure or to diagnose cancer.

In view of the existence of alternative effective mechanisms for addressing concerns for the legitimacy of cancer treatments or cures the retention of such broad powers of inquiry in a body which is not primarily a regulatory or investigative body is no longer considered appropriate or necessary.

The New South Wales State Cancer Council is an independent statutory corporation run as a non-profit charitable institution. To better reflect the non-government status of the Council and bring the Act in line with the organisation's current practices, the name of the New South Wales State Cancer Council is to be changed to the New South Wales Cancer Council.

Mr President, the bill modernises and updates the New South Wales Cancer Council legislation in line with the Council's contemporary and important role of assisting in the prevention of cancer, saving lives and enhancing quality of life for cancer patients and their families.

I commend the bill to the House.

Debate adjourned on motion by the Hon. K. J. Enderbury.

STATUTE LAW REVISION (LOCAL GOVERNMENT) BILL

Bill introduced and read a first time.

Second Reading

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [6.26]: I move:

That this bill be now read a second time.

I seek leave of the House to table my second reading speech and have it incorporated in *Hansard*.

Leave granted.

The Statute Law Revision (Local Government) Bill 1994 is a necessary part of the local government reform package which commenced with the Local Government Act 1993 on 1 July 1993 and has received the widespread support of all members of this Parliament.

I would remind honourable members at the outset that the review of local government legislation is a continuing process with the final major stage being the transfer of subdivision control and the regulation of outdoor advertising to the planning system under the Environmental Planning and Assessment Act 1979.

When the Local Government Act 1993 was introduced, the Government recognised that a degree of fine-tuning would be necessary to ensure that the operation of the new Act would be as effective and efficient as was intended. Honourable members will remember that the recent Local Government Legislation (Miscellaneous Amendments) Act 1994 was introduced in response to the Government's commitment to monitor the operation of the new local government legislation and to make all changes necessary to achieve this objective. This bill has also been introduced in response to the same objective.

Because of the commencement of the Local Government Act 1993 and companion legislation, honourable members will realise that the law relating to local government has changed significantly. This reform legislation also made changes of a non-substantive or non-policy nature which have replaced references, terminology and language previously used in relation to local government with references, terminology and language more appropriate to the spirit and requirements of the new legislation.

These changes should now be reflected in other New South Wales legislation.

Accordingly, the primary purpose of this bill is to make non-contentious statute law amendments of a purely machinery nature to New South Wales legislation to take this practical impact of the Local Government Act 1993 into account. This will create a much desired consistency throughout affected legislation and avoid any further possibility for confusion.

As honourable members may observe, the proposed amendments have been incorporated into a separate bill rather than included in the general statute law program. This approach has been adopted because of the distinctive nature of the amendments which are now proposed in relation to 192 pieces

of New South Wales legislation. The bill will only deal with amendments which are necessary purely as a consequence of the commencement of the Local Government Act 1993.

Turning now to the bill before the House, the bill deals with two main subject areas.

The first area involves minor and non-controversial machinery amendments which the Parliamentary Counsel has considered suitable for inclusion in the bill. They are included in schedule 1.

These amendments will provide that references to Acts and ordinances that have been repealed will be substituted with appropriate references to the Acts and regulations which replace them. The use of terms and language relating to local government and local office will be updated and brought into line with those used in the Local Government Act 1993. The bill will also amend relevant legislation to reflect the recent changes to councils' corporate names.

The second subject area involves the repeal of 45 pieces of local government legislation which are either unnecessary or have no on-going effect. These are included in schedule 2.

The great majority of the legislation proposed for repeal is local government amending legislation where amendments have been incorporated into reprints of the former Local Government Act 1919. Accordingly, this legislation has no further practical utility. The local government rates and charges legislation included in this schedule does, however, have an on-going effect.

The Parliamentary Counsel proposes to retain this by inserting a transitional provision into the Local Government Act 1993. This proposed amendment to the Local Government Act is included in schedule 1 to this bill.

Honourable members may also have noted that the City of Sydney (Elections) Regulation 1993 is to be repealed. This has been made possible by the proposed inclusion of the regulation's substantive provision in the City of Sydney Act 1988 itself. Once again, I would refer honourable members to schedule 1 for details concerning this proposed amendment.

It is, therefore, no longer necessary to retain the legislation referred to in schedule 2.

The Department of Local Government and Co-operatives has carried out an extensive program of consultation with those agencies responsible for administering affected legislation.

I am pleased to report that the response to this consultation has been extremely encouraging. The vast majority of agencies responded positively and have found the proposed amendments to be satisfactory. Where concern has been expressed, these have been considered in consultation with the Parliamentary Counsel's office. Where reasonable and appropriate, the concerns have been taken into account in the bill.

In order to now complete this stage of the review of local government legislation, the Government wishes to ensure that the bill may proceed quickly and without difficulty. Accordingly, honourable members are invited to examine the proposed amendments and to approach my office if any assistance is required to clarify matters referred to in the bill. Where necessary, government officers will be available to assist with any queries. If it is subsequently considered that a particular matter is either not appropriate for inclusion as a statute law amendment or that a concern has not been satisfactorily resolved, the Government may agree to defer the amendment in order for the bill to proceed at this time without controversy.

I commend the bill.

Debate adjourned on motion by the Hon. K. J. Enderbury.

ADJOURNMENT

The Hon. J. P. HANNAFORD (Attorney General, Minister for Justice, and Vice President of the Executive Council) [6.27]: I move:

That this House do now adjourn.

INDUSTRIAL DISPUTES

The Hon. Dr B. P. V. PEZZUTTI [6.27]: I wish to speak on a matter the subject of a recent adjournment debate by the Hon. J. W. Shaw. Earlier this month the Hon. J. W. Shaw QC used the adjournment debate to deny accusations that a future Labor government in New South Wales would go soft on corrupt union officials. Mr Shaw said the information was incorrect and also that corrupt union officials were highly uncommon. That is a highly debatable point. All we need to do is read through the report of the royal commission into the New South Wales building industry; all we need to do is read recent newspaper reports of a senior union official in New South Wales who has been accused by his own union of spending thousands of dollars of members dues on prostitutes. The fact is that Jeff Shaw made clear in a paper he co-authored, and which has been published by the New South Wales Labor Council, that he is strongly opposed to the anti-corruption laws introduced by the Liberal Party-National Party Government.

He has gone further. He has promised to do away with those laws which he has described as draconian and unnecessary. The Hon. J. W. Shaw can deny all he wants, but the fact is that any future Labor government in New South Wales - a thought far too tragic to even contemplate - would go soft on the unions. The Australian Labor Party is a captive of the trade union movement. The ALP has already promised to introduce a range of measures designed to give unions in New South Wales wider powers. For instance, Labor has promised to introduce compulsory unionism by the back door by bringing back unionist preference clauses. Labor has promised to give union officials very wide rights to enter any business in New South Wales at any time, for whatever reason. These are powers that are not given even to our police officers.

We have seen this total capitulation again only in the past few days. A couple of weeks ago the Leader of the Opposition in another place, and the Hon. J. W. Shaw, had a little-publicised meeting with representatives of the New South Wales Labor Council and a number of union leaders. There was no publicity, no press releases and no fanfare about this meeting - and no wonder, because it was during this secret meeting that the Leader of the Opposition and the Hon. J. W. Shaw endorsed plans by union leaders to stage a damaging campaign of politically-motivated strikes between now and the March election. The aim of this campaign appears to be to cause major disruption to public services in New South Wales, including disruptions to our schools, our hospitals, to the ambulance service, the fire brigade, our trains and buses, and to the public service generally.

This campaign will disrupt public services. It is being organised by a special subcommittee of the New South Wales Labor Council, an unpublicised subcommittee set up with the approval and encouragement of Bob Carr. That subcommittee is believed to include representatives of most major unions in New South Wales. Their task is to plan what is described as an all-out war against the Fahey Government. Mr Peter Sams, Secretary of the New South Wales Labor Council, told the *Australian* newspaper that the council was prepared to assist other unions which felt they could profit from action in the forthcoming months. The secretary of the water branch of the Australian Services Union, Mr Bruce

Grimshaw, was quoted by the same newspaper as having said, in relation to the subcommittee, "the operation of the subcommittee is to extend and initiate a coordinated campaign between now and the next State election in March 1995".

Like other groups in the community, the trade union movement in this State has every right to criticise the Government's policy and to support

alternative parties. But the union movement does not have the right to use its industrial muscle to disrupt public services, including schools and services, just so that they can help their Labor mates get elected to office. With the support of Bob Carr and the Hon. J. W. Shaw the trade union leadership in New South Wales has now agreed to disrupt public services in this State, purely for political purposes. They appear to be quite willing to hold the public of New South Wales to ransom for purely political purposes. We know that the Leader of the Opposition and Labor are captives of the trade unions. They control the preselection process and call the tune. But this is the ultimate sign of the arrogance of Bob Carr. The people of New South Wales, the families whose lives Labor is quite happy to disrupt, will be told the truth and they will remember what Labor has done when the time comes.

MARIJUANA EFFECTS

The Hon. ANN SYMONDS [6.29]: The validity of a much-quoted article by United States anti-drugs campaigners Dr Gabriel Nahas and Dr Collete Latour has been challenged by two Australian pharmacologists, Dr Greg Chesher and Dr Mac Christie, in the latest edition of *Drug & Alcohol Review*, Volume 13 No. 2. In 1992, the MJA published an article by Nahas and Latour, *The Human Toxicity of Marijuana*, claiming that marijuana was much more dangerous than was generally acknowledged. These claims were challenged in the prestigious *Drug & Alcohol Review* by Dr Greg Chesher and Dr Mac Christie in their article, *The Human Toxicity of Marijuana: a Critique of a Review by Nahas and Latour.*

Dr Nahas seems to have been misrepresenting evidence on the effects of marijuana on humans. Dr Nahas' article contained no new research. It was a review of other people's work with gross errors of omission and commission. Dr Nahas misrepresented the findings of several important studies of the effects of marijuana on health. Claims about the health impacts of marijuana on foetal development, the aero digestive tract, disease states and mental processes were not supported by the original evidence. He omitted references in these studies to other factors such as tobacco smoking and drinking, which the researchers indicated may have had an adverse effect on the subjects.

It must be noted that the smoking of any plant material is likely to deliver carcinogens. Smoke condensates from marijuana were shown by a researcher to effect chromosomal DNA in cell cultures. On the basis of this research Nahas claimed that tetrahydrocannabinol and other cannabinoids also impair DNA. This is not a valid conclusion from examining the effect of smoke condensates, with their multiplicity of compounds. The likely carcinogens in tobacco and marijuana smoke include nitrosamines, benzopyrine and vinyl chloride. Lung cancer among smokers is not caused by the nicotine in tobacco or the cannabinoids in marijuana but by those products previously mentioned.

There were 35 papers cited in the Nahas article and 28 of them were cited inaccurately, or lacking the authors' caveats and cautions, all tending to amplify the adverse effects of marijuana. The probability of all the inaccuracies being in the adverse direction and not in both directions is over 10,0000 to 1. One inference to be drawn from these inaccuracies, which all served to demonstrate adverse effects of marijuana, is that Nahas has deliberately misstated the facts to further his own political agenda. United States anti-marijuana crusader, Dr Gabriel Nahas, has been to Australia on several occasions to argue against relaxing the laws relating to marijuana. He has been widely used in parliamentary inquiries and legal debates against drug law reform.

At inquiries into drug use all over Australia, Gabriel Nahas' utterings are used to oppose drug law

reform. His work is widely quoted by prohibitionists. The Queensland Criminal Justice Commission noted at page 61 of its "Report on Cannabis and the Law in Queensland" that submissions such as the submission from the Campaign Against the Legalisation of Marijuana - CALM - "relied substantially on research conducted by an American academic, Professor Nahas". Dr Nahas has also been widely quoted in submissions made to parliamentary inquiries in South Australia and the Australian Capital Territory.

In New South Wales, a coroner accepted this article as evidence of the toxicity of marijuana and in his findings cited marijuana use as a factor in the suicide of a young man. This conclusion has amazed pharmacologists and doctors. Dr Nahas is no stranger to misrepresentation in scientific articles. In a review of one his books, the *Journal of the United States Medical Association* said, "Examples of biased selection and . . . omissions abound in every chapter". *Contemporary Drug Problems* described his work as, "Meretricious trash". There were misrepresentations about him when he last came to Australia. A press release announcing his coming to Australia claimed he was an adviser to the United Nations Commission on Narcotics. A check with the United Nations office revealed this was not true. The commission has no advisers. The United Nations International Drug Control program denied he had ever had a consultancy contract.

Dr Nahas and numerous other people have presented papers to the Drug Control Group but Nahas has no particular status. The Nahas-Latour article should not be relied on by those formulating policy on marijuana use. Those opposed to marijuana use are not assisted by a fundamentally flawed article like his and Collette Latour's. Anyone seeking accurate scientific opinion on the effects of marijuana use should use the recently published document "The Health and Psychological Consequences of Cannabis Use" prepared for the National Taskforce on Cannabis by the National Drug and Alcohol Research Centre. There are concerns about the long-term effects of heavy, chronic use of marijuana, but for occasional recreational users of cannabis, the health risk appears to be fairly low, and certainly lower than tobacco. We are grateful for this work done by Dr Greg

Chesher and Dr Mac Christie because it is important that we argue from a basis of fact if we wish to discuss policies in the important matter of drug reform. Clearly Dr Nahas and Dr Collette Latour have been totally discredited by the work done by this research. [*Time expired*.]

RU486 ABORTIFACIENT TRIALS

Reverend the Hon. F. J. NILE [6.34]: I put on record some of the excellent material in an article published in the *Sydney Morning Herald* by Margo Kingston about the RU486 abortion pill that has been trialled here in Australia. The report contains helpful information such as the complaints about the tests that the Australian Catholic Bishops Conference made to the new health Minister, Dr Carmen Lawrence. Though it is described as though it was private or secretive, the purpose of the Catholic bishops' lobbying was to give the Minister the opportunity to investigate the matter without its becoming a matter of controversy in the media. Their campaign documented claims from Australian feminist medical academics of serious risks of side effects like infertility and ectopic pregnancy.

Dr Lawrence unfortunately rejected the bishops, with her officials arguing that there was already an ethics committee that looked after these matters and it was not her particular responsibility. The ethics committee comprised a lawyer, a minister of religion and other lay people. Their duty was to ensure that consent forms were adequate and that legalities had been obeyed. Her argument fell flat when revelations came to public knowledge that the religious representative on Family Planning Victoria's ethics committee overseeing the RU486 abortion trial, Anglican Bishop John Bayton, had taken absolutely no part in considering the trials. The Federal Department of Health was forced to admit that there was no need for any of the people compulsorily on the board actually to do anything or even to turn up.

Senator Harradine forced the release of the consent forms. Although they were supposed to inform the women of the risks they were taking in
agreeing to be part of the medical testing - and they accepted those in good faith - the forms made no mention of some of the risks to which they were opening themselves up. They also omitted any mention of the possibility of gross birth defects if no abortion resulted and that a surgical abortion might be necessary. It was also discovered that a doctor in charge of the Melbourne tests, Dr David Healy, was revealed to have been a leading proponent of pituitary hormone treatment for infertile women in the early 1980s, just before it was banned as allowing the transmission of Creutzfeldt-Jakob disease, though there is no evidence that Healy had knowledge of the CJD risks at the time.

Honourable members might remember that pituitary hormones were taken from dead bodies and distilled for injection into women suffering from infertility - without their knowledge of the drug's source or side effects. Women died of the incurable brain disorder Creutzfeldt-Jakob disease. That in itself is a medical scandal. A reading of the reports would suggest that the RU486 tests are almost in the same category. If the tests continue one will have to wait to see what will happen to some of the women taking part. They will have the opportunity to sue the Family Planning Association and even the Federal Minister for Health for not intervening to prevent the testing and also to point out the serious risks they faced as they underwent the RU486 trials.

This serious matter has split the women's movement. Some hail the drug as widening abortion choice; others fear the side effects and failure rate. I am on the side of those who fear the side effects and failure rate. I urge the State Government and the Minister for Health in this State to monitor the situation closely and prevent any tests taking place in New South Wales until all the health risks are clearly evaluated. The tests should not take place using the women of this State as guinea pigs for an abortion pill that has caused serious harm in France and other countries. [*Time expired*.]

Motion agreed to.

House adjourned at 6.39 p.m.

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QUESTIONS UPON NOTICE

The following questions upon notice and answers from the previous session were circulated in *Questions and Answers*:

NORTHERN RIVERS FAECAL COLIFORM COUNTS

Mr Jones asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Health -

(1) Did the North Coast Regional Director of Public Health, Dr John Beard, reveal that four rivers in northern New South Wales had faecal coliform counts up to 10 times the acceptable Australian level for bathing?
(2) What percentage of these coliforms were from human source and what percentage were from farm stock source?
(3) Are faecal coliforms from stock indistinguishable from faecal coliforms of human sources?
(4) What action is being taken to reduce these coliform levels?

Answer -

(1) The Director of the North Coast Public Health Unit, Dr John Beard, recently discussed on Local ABC radio interim results from a year long study monitoring faecal contamination in four North Coast rivers. All four river systems showed intermittently high levels of faecal contamination, on occasion up to approximately 10 times the recommended NH&MRC bathing levels.
(2) There is no distinction between faecal coliforms of human or animal origin.
(3) Yes.
(4) All North Coast Councils have been advised (May 1993) of the preliminary results of the "North Coast River Catchment Study".
The Health Department is represented on the SAA 1547 Drafting Committee which is presently reviewing this document entitled "Disposal of Sullage and Septic Tank Effluent from Domestic Premises".

GAMBLING COUNSELLING

Mr Jones asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing -

(1) How many full time Counsellors are employed to counsel compulsive gamblers?
(2) Is it a fact that Lifeline receives approximately 2500 calls a year on gambling problems?
(3) Are sufficient Counsellors employed to cope with the problem?

Answer -

(1) There are eight projects in New South Wales which specifically deal with gambling problems; of these, four employ a full-time Counsellor and are funded by the Department of Community Services:
The Gambling Counselling Project, Centacare
The Salvation Army Compulsive Gambling Project
Credit Line Gambling Counselling Service
Lifeline Gambling Counselling Service.
The four remaining projects operate on a part-time basis and are not funded by the Department of Community Services.
(2) I am advised that the Sydney Lifeline Gambling Service received 2633 gambling related calls from July 1992 to June 1993.
(3) Under the special Family Support Program additional funds have been provided over the past three budgets to a variety of counselling services, including gambling specific services, to increase their staffing.

FAMILY WEEK COSTS

Mr Dyer asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing -

(1) What was the total expenditure by the Department of Community Services on the recent Family Week?
(2) What was the total advertising, promotional and public relations budget?
(3) How was that budget disbursed?
(4) What external agencies were retained by the Department to assist with the promotion of Family Week?
(5) What was the budget allocated for the promotion of Family Week by external agencies?
(6) What were the attendance figures at each of the Family Week events staged by the Government, and what was the cost of each event and activity?

Answer -

(1) The Treasury allocation for the Family Week 1993 program was $998,000. Some accounts for Family Week have not yet been presented for payment. However, it is estimated that the total of the accounts will be a little less than the allocation.
(2) The total advertising, promotional and public relations budget was approximately $174,000.
(3) This budget was disbursed on print, radio and television advertising and promotion, banners and other incidental promotional items and activities.
(4) The external agencies retained by the Department to assist with the promotion of the events, activities and projects of the Family Week program were Jan Edwards Business Services and the Promotions Department.

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(5) See answer to 2 above.
(6) An estimated 25,000 people attended the Telecom Family and Friends Festival held at Parramatta Park on 2 October 1993.
Despite heavy rain, by 6.00 pm on 3 October 1993 an estimated 600 people were present in the Sydney Domain for the Cartoon and Movie Festival.
The combined cost of the above two events was $380,000.
In addition, the costs of seven projects are included in the Family Week program. Most of these projects are still current and provide a bridge to the United Nations International Year of the Family. These projects are budgeted at approximately $336,000.

LICENSING OF ACCOMMODATION FOR THE DISABLED

Mr Dyer asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing -

(1) Why is average staffing for the licensing and monitoring of vocational and residential centres for people with a disability expected to decrease from 8 to 6 officers in 1993/94?
(2) Is this regarded as an adequate level of staffing given the high level of public concern regarding standards at some institutions?

Answer -

(1) There are currently ten Department of Community Services positions with responsibility for the licensing and monitoring of residential centres for people with a disability. Nine of those are full-time field positions.
There is no intention of reducing the number of Departmental staff responsible for the licensing and monitoring of residential centres for people with disability.
(2) Not applicable.

SOLE PARENT HOUSING APPLICATIONS

Mr Jones asked the Minister for Planning, and Minister for Housing -

(1) How many sole parents are on the Department of Housing Waiting List in the Parramatta to Penrith region?
(2) How much has this figure increased in the past twelve months?
(3) What is the average waiting time on the Housing List for sole parents in this region?

Answer -

(1) The Parramatta to Penrith region falls within the Department of Housing's Western Sydney Regional

Housing Office (formerly the Western Metropolitan Regional Office) and comprises five Local Government areas.
As at 30 June, 1993, 2717 sole parents were included in the waiting list for public housing from the following Local Government areas:

Baulkham Hills	-	115
Blacktown	-	1046
Holroyd	-	357
Parramatta	-	593
Penrith	-	606

(2) No records were maintained by the Regional Office prior to 30 June, 1993.
(3) The Department does not maintain separate waiting lists for sole parents but recognises that household compositions vary. Accordingly, waiting times are determined by the bedroom category required and the preference for dwelling type and location.

WARILLA POLICE STAFFING

Mr Jones asked the Attorney General, Minister for Justice, and Vice President of the Executive Council, representing the Minister for Police, and Minister for Emergency Services -

(1) Is the Shellharbour Local Government area experiencing rapid residential growth?
(2) Is the Warilla Patrol about to lose seven police officers?
(3) As Warilla Patrol also covers the Kiama area, what impact will this loss of police officers have on crime prevention in the area?
(4) Will the Minister ensure this decision is re-examined?

Answer -

(1) The Shellharbour Municipal area is experiencing growth. The Local Government area of Shellharbour is covered by the Warilla Patrol and part of the Dapto Patrol.
(2) I am advised that when the old Wollongong Police Station closed in July 1989, six additional units were allocated to Warilla Patrol to assist with prisoner transport and security for about two years while the new Wollongong Police Station was being built.
Since the opening of the new Wollongong Police Station and cell complex, prisoners are no longer held overnight at Warilla. A recent assessment of the Warilla Patrol has shown that the patrol was over strength by seven officers. The additional units have been absorbed into other patrols throughout the Illawarra District.
(3) The Kiama area is policed from the Kiama Police Station which is a sector of the Warilla Patrol. The Kiama Police Station has an authorised strength of 10 police which is independent of the strength at the Warilla Police Station.
(4) The strength of police patrols are determined by use of a formula based on crime figures and workload. Accordingly, there is no need to re-examine the decision.

REGIONAL SCHOOL STAFFING

Mr Jones asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier -

Now that schools in New South Wales are autonomous and Regional Offices deal with staffing and pay, what impact is this having on central staffing levels, and how many staff have been redeployed regionally?

Answer -

Since 1988/89 824 positions have been devolved to regions or deleted from the State Office establishment. Regional establishments have increased by 420 positions since 1988/89.
In 1992/93 there are 764 positions in State Office and 1588 positions in regions.

M2 MOTORWAY PROPOSAL

Mr Jones asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Transport, and Minister for Roads -

(1) Will the Minister confirm that the following statement was made by the former Premier N. F. Greiner which appeared in the Western Sydney Business Review Weekly on 15 October 1990, who at the same time claimed to be "amazed" at the "totally one-sided" report?

> "We were all set to go with the Castlereagh Freeway until the Commission's report. We have now got to find a way to address the issues that are raised there."

(2) Will the Minister confirm that the former Premier announced on Channel 9 on August 18, 1990 that he would `fight the report'?
(3) Did the former Premier and the Minister for Roads then instruct the RTA Director, Robert Francis Morris to "find a way" to fight the report?
(4) Was the way found to fight the report, detailed in the minute paper (F2/201.11451) dated 4 September 1990, from Morris to the Minister, namely to predetermine the project in breach of the Environmental Planning and Assessment legislation?
(5) Would the Minister confirm that N.F. Greiner is now a Deputy Director of Statewide Roads, part of the Consortium known as the Norwest Motor Company, which has placed an expression of interest with the RTA to construct the F2?
(6) Is it true that Mr Morris is encouraging expressions of interest to specify "legislation or regulation to facilitate implementation of the project"?
(7) Does such legislation mean arrangements involving large sums of public money along the lines of those now in place for the Harbour Tunnel, the M4 and M5, and the subject of interest to the Auditor-General?
(8) Is Robert Francis Morris to be rewarded for his efforts on behalf of the F2 and its backers, by promotion to Chief Executive on Bernard Fisk's retirement, while allegations of improper conduct made in this House on 16 October 1993 have not been refuted by the Government or the Minister?

Answer -

(1) I do not have a copy of the Western Sydney Business Review Weekly of 15 October 1990. Therefore I am unable to confirm or deny.
(2) I do not have a copy of the Channel 9 report of 18 August 1990. Therefore I am unable to confirm or deny.
(3) No.
(4) N/A.
(5) This is a matter for the former Premier.
(6) No. The expressions of interest require the proponent to indicate if their offers require supportive legislation. This is a standard query of proponents in private venture arrangements.
(7) N/A.
(8) It is obvious from the Honourable Member's question that he is attempting to create a false impression of manipulation and self serving interest by the Hon. N. Greiner, the former Premier and Robert Morris, Director, Sydney Region of the Roads and Traffic Authority, in regard to the M2 Motorway.
The Honourable Member's form of questioning is totally unwarranted.
The imputation of manipulation and self serving interest by both Mr Greiner and Mr Morris are refuted.

The following questions upon notice and answers were circulated in *Questions and Answers*:

PORT STEPHENS COUNCIL EXTRACTIVE INDUSTRIES

Mr Jones asked the Minister for Planning, and Minister for Housing -

(1) Did Boral Resources (Country) Pty Ltd destroy World War II radar station buildings off Coxs Lane in the parish of Stowell, Port Stephens?
(2) Were the World War II buildings on land zoned 5(a) special purposes in the statutory planning scheme for Port Stephens - Local Environmental Plan 1987?
(3) Did the Company extract sand from this land and remove its landscape?
(4) Was a Development Application lodged with the Port Stephens Council as required before this activity could be carried out on land zoned 5(a) Special Purposes?
(5) Did the Port Stephens Council give its consent to these activities and can the Minister obtain a copy of the Development Application and Consent documents?
(6) Did a sand extraction company remove the adjacent Public Reserve No. 170039? If so, is this an allowable activity on land zoned 6(a) Public Recreation?
(7) Was landscape removed and a haulage road constructed across Reserve No. 170039 without the consent of the Port Stephens Council and the knowledge of the department administering Crown Land Reserves?
(8) Has the Port Stephens Council advised the Minister, the department and the general public that this company is operating within the conditions of a
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consent document issued by the Council in 1976? If so, has the Council provided a copy of this document for perusal?
(9) If not, is the Minister able to verify the accuracy of this advice although the consent documents have not been provided?
(10) Will the Minister institute a commission of inquiry into the Port Stephens Council Planning Department and the Council's ability to control extractive industry in their area?
(11) What action is the Government taking to control destruction of lands such as Reserve No. 170039 in the coastal zone of New South Wales?

Answer -

(1) I am not aware of whether Boral Resources (Country) Pty Ltd destroyed any WWII radar buildings off Coxs Lane. This is a local matter which should be directed to Port Stephens Council.
(2) - (4) These questions should be directed to Port Stephens Council as consent authority.
(5) The question whether a consent was issued should be directed to Port Stephens Council as consent authority. If consent was issued, a copy of the consent is required to be available for public inspection as part of the Council's consent register.
(6) and (7) These questions should be directed to Port Stephens Council as consent authority and the Minister for Land and Water Conservation as owner.
(8) I am aware that an officer of the Council has verbally advised the Department of Planning that Boral was operating within the terms of the 1976 Development Consent No. 143/76 which applied to Portion 3. The Department of Planning was also informed by the Officer of Council that the site shed and related carparking were erected on the 5(a) land without consent and Council had subsequently issued consent.
(9) The consent document held by Council as consent authority would be required to verify whether the company is operating within conditions of consent.
(10) I do not propose to institute a Commission of Inquiry, however, I will consider any relevant findings referred to me by the Office of the Ombudsman.
(11) The Government has established a comprehensive framework to manage the coastal zone ranging from the New South Wales Coast: Government Policy to Coastal Urban Planning Strategies and Regional Environmental Plans. In addition, a detailed Plan of Management for the Newcastle Bight is being developed as a joint project between the Councils (Port Stephens and Newcastle) and relevant Government Agencies.

RYDE LEGAL AID OFFICE APPLICATIONS

Ms Burnswoods asked the Attorney General, Minister for Justice, and Vice President of the Executive Council -

(1) How many applications for legal aid were received in 1991, 1992, 1993 and to date in 1994 by the Ryde Legal Aid Office?
(2) How many of the applications in each year related to:
    (a) Criminal matters?
    (b) Civil matters?
    (c) Family Law matters?
(3) How many of the applications (referred to in question two), approved in each category, were based on:
    (a) Means?
    (b) Merit?
    (c) Lack of funds?

Answer -

(1)
1991	872
1992	834
1993	941
1994 (to 31 March)	177

(2) (a) 1991 - 849 (810 local courts duty matters, 39 indictable matters)
1992 - 795 (756 local courts duty matters, 39 indictable matters)
1993 - 890 (837 local courts duty matters, 53 indictable matters)
1994 (to 31 March) - 167 (163 local courts duty matters, 4 indictable matters)

(b) 1991	11
1992	14
1993	10
1994 (to 31 March)	Nil
(c) 1991	12
1992	25
1993	41
1994 (to 31 March)	10

(3) The numbers of applications that were approved and refused are set out below. It should be noted that the Commission approves grants of aid by taking into consideration, the means and merit test as well as its policy guidelines. It is, therefore, not possible to break down the grounds for approval into the categories referred to in the question. If an applicant does not satisfy one or a combination of these factors, then aid will be refused. The reason for refusal is recorded as an applicant has the right in most cases to appeal the decision to an independent Legal Aid Review Committee.
Applications granted by the Ryde Legal Aid Office by area of law in the 1991 calendar year are as follows:
    (a) 684 (out of 810) applications were granted in criminal (local court duty) matters.
    (b) 33 (out of 39) applications were granted in criminal (indictable) matters.
    (c) 4 (out of 11) applications were granted in civil matters.
    (d) 11 (out of 12) applications were granted in family law matters.
Refusals made by the Ryde Legal Aid Office in 1991, by area of law and by reason of refusal, are as follows:
    (a) for criminal (local court duty) matters, 126 applications were refused based on the Commission's guidelines and/or the means test.
    (b) for criminal (indictable) matters:
        (i) 3 applications were refused based on the means test;

(ii) 1 application was refused based on the Commission's guidelines;
(iii) 1 application was refused based on both guidelines and the means test; and
(iv) 1 application was refused for "other" reasons.

(c) for civil matters:
(i) 3 applications were refused based on the means test;
(ii) 1 was refused based on the merit test;
(iii) 1 was refused based on the guidelines; and
(iv) 1 was refused based on the application of the means and merit test, and on guidelines

(d) for family law matters:
(i) 1 application was refused based on the means test; and
(ii) 1 application was refused for "other" reasons.

Applications granted by the Ryde Legal Aid Office by area of law in the 1992 calendar year are as follows:

(a) 664 (out of 756) applications were granted in criminal (local court duty) matters.
(b) 36 (out of 39) applications were granted in criminal (indictable) matters.
(c) 9 (out of 14) applications were granted in civil matters.
(d) 19 (out of 25) applications were granted in family matters.

Refusals made by the Ryde Legal Aid Office in 1992, by area of law and by reason of refusal, are as follows:

(a) for criminal (local court duty) matters, 92 applications were refused based on the Commission's guidelines and/or the means test.
(b) for criminal (indictable) matters:
(i) 2 applications were refused based on the Commission's guidelines; and
(ii) 1 application was refused for "other" reasons.
(c) for civil matters:
(i) 2 applications were refused based on the means test;
(ii) 2 applications were refused based on the merit test; and
(iii) 1 application was refused for "other" reasons.
(d) for family law matters:
(i) 1 application was refused based on the means test; and
(ii) 1 application was refused based on the merit test.

Note: Four family law applications have not been determined (ie not granted or refused) as the Commission has sought additional information to enable a determination to be made.

Applications granted by the Ryde Legal Aid Office by area of law in the 1993 calendar year are as follows:

(a) 750 (out of 837) applications were granted in criminal (local court duty) matters.
(b) 49 (out of 53) applications were granted in criminal (indictable) matters.
(c) 7 (out of 10) applications were granted in civil matters.
(d) 30 out of 41 applications were granted in family matters.

Refusals made by the Ryde Legal Aid Office in 1993 by area of law and reason for refusal, are as follows:

(a) for criminal (local court duty) matters, 87 applications were refused based on the Commission's guidelines and/or the means test.
(b) for criminal (indictable) matters, 2 applications were refused based on the Commission's guidelines.
(c) for civil matters, 2 applications were refused as they were outside of jurisdiction.
(d) for family law matters, 4 applications were refused based on the Merits test.

Applications granted by the Ryde Legal Aid Office by area of law in the period of 1 January to 31 March 1994, are as follows:

(a) 136 (out of 163) applications were granted in criminal (local court duty) matters.
(b) 1 (out of 4) applications were granted in criminal (indictable) matters.
(c) 5 (out of 10) applications were granted in family matters.

Refusals made by the Ryde Legal Aid Office in the period 1 January to 31 March 1994 by area of law and reason for refusal, are as follows:

(a) for criminal (local court only) matters, 27 applications were refused based on the Commission's guidelines and/or the means test.

(b) 2 applications were refused based on the means test.
(c) 1 application was refused based on the Commission's guidelines.
(d) for family law matters:
(i) 1 application was refused based on the means test;
(ii) 1 application was refused based on the merits test; and
(iii) 1 application was refused on application of both the means and merit test.

STATE BANK INVOLVEMENT IN No. 1 O'CONNELL STREET PROPERTY DEVELOPMENT

Mr Egan asked the Attorney General, Minister for Justice, and Vice President of the Executive Council, representing the Treasurer, and Minister for the Arts -

(1) Did the State Bank of New South Wales negotiate with Mr Graham Jones, while he was Chief Executive of AustWide Management Limited, or with any other parties to the development of the property known as No. 1 O'Connell Street, for a conversion of loans to equity?
(2) If so, what is the outcome of these negotiations?

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Answer -

The Treasurer has advised that he has received the following information from the State Bank:
(1) and (2) The Bank is not at liberty to disclose details of this nature given its common law and statutory obligations of customer confidentiality.

STATE BANK LENDING POLICY

Mr Egan asked the Attorney General, Minister for Justice, and Vice President of the Executive Council, representing the Treasurer, and Minister for the Arts -

(1) What is the total value of loans made by the State Bank of New South Wales that have been converted into equity?
(2) Are you satisfied that the Bank's financial statements reflect the fair market value of such equity?

Answer -

(1) It is not State Bank practice to convert loans into equity of its own volition, rather it may act as mortgagee in possession or, in the case of a few syndicated lending facilities, have taken options or contingent claims over equity participations. The Bank is not at liberty to disclose details of these transactions given its common law and statutory obligations of customer confidentiality.
(2) Such equity participations come under the same scrutiny by the independent Board of Directors and the Auditor General as all the Bank's assets before they certify that the profit and loss account and balance sheet are drawn up so as to give a true and fair view of the state of affairs of the Bank at the end of each financial year in accordance with the requirements of the Corporations Law.

STATE BANK INVOLVEMENT IN No. 1 O'CONNELL STREET PROPERTY DEVELOPMENT

Mr Egan asked the Attorney General, Minister for Justice, and Vice President of the Executive Council, representing the Treasurer, and Minister for the Arts -

(1) (a) Is the State Bank of New South Wales receiving all of the interest on its loans in respect of the project known as No. 1 O'Connell Street?
(b) If not, are the loans being treated by the Bank as non-accrual loans?
(c) If not, are you satisfied that claims made in the Bank's last Annual Report concerning its level of

non-accrual loans accurately reflect the true position of the Bank's problem loans?

Answer -

The Treasurer has advised that he has received the following information from the State Bank:
(1) (a) to (c) The State Bank has common law and statutory obligations of customer confidentiality and is therefore not able to disclose information on the specific liability and exposure in question. Furthermore, beyond the legal position, the disclosure of information on customers' affairs and bank exposure to customers would be commercially damaging to the Bank as it would discourage people and companies from undertaking banking with the State Bank.
Members should be aware that the Government has a responsibility as the shareholder in the Bank to ensure that the financial affairs of the Bank, as an operating entity, are in order. Accordingly, the Government relies on the Auditor-General to certify, amongst other things, that in his opinion financial statements of the Bank are properly drawn up so as to give a true and fair view of the state of affairs of the Bank at the end of each financial year.
Further, the independent Board of Directors, who are mindful of their obligations under the Corporations Law, certify that the profit and loss account and balance sheet are drawn up so as to give a true and fair view of the state of affairs of the Bank at the end of each financial year.
The State Bank has been formally subject to the prudential supervision of the Reserve Bank since the referral of power in February last year and had previously complied with all Reserve Bank prudential guidelines pursuant to an exchange of letters in March 1965. This includes lodgement of a Non-Performing Loans Return in respect of which the Reserve Bank looks to a report from the Auditor-General as to its accuracy.
Therefore, whilst the Government may not have access to information in relation to individual client transactions it has certifications from the Auditor-General and the Board of Directors which are printed on page 64 of the State Bank's Annual Report on the overall financial state of the Bank and the knowledge of the oversight by the Reserve Bank of the Bank's activities.

STATE BANK INVOLVEMENT IN No. 1 O'CONNELL STREET PROPERTY DEVELOPMENT

Mr Egan asked the Attorney General, Minister for Justice, and Vice President of the Executive Council, representing the Treasurer, and Minister for the Arts -

(1) (a) Is the State Bank of New South Wales the lead banker in the banking syndicate which has financed the project known as No 1 O'Connell Street?
(b) Do any of the other members of the banking syndicate hold any rights in the nature of first options?
(c) If so, what is the trigger for the exercise of these rights and what is the total exposure of the State Bank of New South Wales?

Answer -

The Treasurer has advised that he has received the following information from the State Bank:
(1) (a) to (c) The State Bank has common law and statutory obligations of customer confidentiality and is therefore not able to disclose information on the matter in question.

STATE BANK LOSSES

Mr Egan asked the Attorney General, Minister for Justice, and Vice President of the Executive Council, representing the Treasurer, and Minister for the Arts -

(1) (a) What is the total loss the State Bank of New South Wales has suffered, both by lending to and/or

investing in:
(i) Girvan;
(ii) Charterhall; and
(iii) Farrow Corp and Pyramid Building Society?

(b) What is the breakdown of the total loss between Girvan, Charterhall, the Farrow Corp and Pyramid Building Society?

(2) (a) What major consultancy fees has the State Bank of New South Wales paid in recent years?

(b) Has the Bank engaged Dr Michael Crawford or Corex Pty Ltd in a consulting capacity in recent years?

(c) If the answer to 2(b) is yes, what fees have been paid to either Dr Michael Crawford or Corex Pty Ltd to date, and what fees are still owing?

Answer -

The Treasurer has advised that he has received the following information from the State Bank:
(1) (a) and (b) The State Bank is prohibited under the general law and Section 7 of the State Bank (Corporatisation) Act 1989 from disclosing confidential information. Accordingly, the information requested is not available.
(2) (a) to (c) The State Bank is not a corporatised entity. The information requested is not in the nature of information provided to the Government by corporatised entities, including the Bank. The Government therefore has no knowledge of any arrangements that may exist between the Bank and Dr Michael Crawford or Corex Pty Ltd.

SALE OF RAIL TRACK

Mr Jones asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Transport, and Minister for Roads -

(1) Is the section of the 30kg `pioneer' rail between Ungarie and West Wyalong to be sold at auction?
(2) Would this rail be suitable for use for light rail in Sydney?
(3) Before sections of the 30kg rail are sold, will you ensure that its potential for light rail is thoroughly investigated?

Answer -

(1) The 30kg 'pioneer' rail from between Ungarie and West Wyalong has been sold by public tender in two lots.
(2) No.
(3) Not applicable.

GREAT LAKES COUNCIL COASTAL POLICY

Mr Jones asked the Minister for Planning, and Minister for Housing -

(1) On what date did the Director of the Department of Planning deal with the Great Lakes Council preferred coastal zone application?
(2) What date did the Department of Planning notify Great Lakes Council of its decision?

Answer -

(1) and (2) The existing coastal policy has been reviewed by the Coastal Committee of New South Wales. The Draft Revised Coastal Policy was placed on public exhibition on 20 April 1994 for a period of six months. The review document includes five options for defining the coastal zone. The Coastal Committee is seeking comments on these options during the exhibition period.

Given the current review and exhibition of the Costal Policy, which will specifically address the question of the definition of the coastal zone and the recognition that there is a need for a consistent approach, it has been decided not to proceed with nominations made by councils at this stage. The Great Lakes Council is one of the councils which has referred maps with coastal boundaries to the Department of Planning. The councils were notified of the decision not to determine the nominated coastal boundaries by letter dated 5 May 1994, following the Draft Revised Coastal Policy being placed on exhibition.

RIVERS POLICY

Mr Jones asked the Minister for Planning, and Minister for Housing -

(1) Did the Government establish an inter-departmental working party on wild and scenic rivers several years ago?
(2) Did the working party deliberate over a period of approximately two years?
(3) Was Mr Neville Apitz the Chairperson of that working party?
(4) Did the working party report to the Ministers for Planning and Water Resources?
(5) Was a State Environmental Planning Policy recommended by the working party?
(6) Did the working party consider the question of legislation?
(7) Will the Ministers table the recommendations of the working party?

Answer -

(1) Yes. However, the most recent working group was established by the Water Resources Council in October 1989.
(2) No. The working group deliberated in meetings for eleven months (from December 1989 to November 1990) and members were invited to comment on the draft Policy in March 1991.
(3) Yes.
(4) No. The working group reported to the Water Resources Council.

(5) No. The role of the working group to develop a State Environmental Planning Policy was in accordance with the decision of the Water Resources Council.
(6) No.
(7) No. The matter is still under consideration by the Government.

CONSTRUCTION COMPLAINT BY Mr AUSTIN

Dr Burgmann asked the Minister for Planning, and Minister for Housing, representing the Minister for Consumer Affairs, and Minister Assisting the Minister for Roads -

(1) Has Mr Alan Austin of Narellan made complaints to the Building Services Corporation regarding faulty brickwork at his home?
(2) Has the Building Services Corporation taken action in relation to these complaints? If not, why not?
(3) Does the Building Services Corporation regard the present brickwork to be of an acceptable standard? If so, why?
(4) Did Mr Austin make an FOI request in relation to this matter?
    (a) If so, was Mr Austin provided with his full file? If not, why not?
    (b) If any material was missing will it now be supplied?

Answer -

(1) Yes. Mr Austin lodged a complaint dated 29 September 1989 in relation to faulty brickwork at his home.
(2) Yes. The brickwork to Mr Austin's home was inspected by a number of the Corporation's officers

including the Assistant General Manager (Inspection Services) and the former General Manager. The Corporation subsequently issued a rectification order to the builder.
(3) No. All of the Corporation's officers who inspected the brickwork agreed that some areas of the brickwork required attention. The brickwork did not in their opinion, however, require complete demolition as requested by Mr Austin. Following subsequent discussions between the builder and Mr Austin, he agreed to accept an amount of $2,000 from the builder as settlement of the matter.
Notwithstanding that course of action, the Corporation's current General Manager has recently directed a complete re-investigation of the matter.
(4) (a) Yes.
(b) Not applicable.

TEACHER SUSPENSIONS

Ms Burnswoods asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier -

(1) How many teachers have been suspended without pay since 1990 because they have been charged with:
(a) a criminal offence;
(b) breaches of discipline of a non-criminal kind?
(2) In each category listed above:
(a) how many teachers who were suspended have been subsequently found guilty?
(b) how many of those found not guilty, or against whom charges were not proceeded with, resumed their teaching careers?

Answer -

(1) (a) 38 full time teachers.
(b) 23 full time teachers.
(2) (a) In relation to criminal offence(s) 7 were subsequently found guilty. In relation to breaches of discipline 12 were subsequently found guilty.
(b) In relation to criminal offences 17; in relation to breaches of discipline 1.
In relation to criminal offences 14 of the 38 teachers have either resigned or their cases are pending and in respect of breaches of discipline 10 of the 23 teachers have either resigned or their cases are pending. It should also be noted that some of the teachers found not guilty of criminal offences were subsequently charged with breaches of discipline. To this extent there is some overlap in the numbers provided.

ROADS AND TRAFFIC AUTHORITY PARKLAND

Mr Jones asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Transport, and Minister for Roads -

(1) Are two parks on the corner of Albert Street and Erskineville Road, owned by the Roads and Traffic Authority?
(2) Are these parks used by many residents for recreation purposes?
(3) Does the RTA regard these two parks as surplus space?
(4) If so, why?
(5) Does the Minister support a Department of Planning recommendation that 2.83 hectares of open space be provided per thousand people?
(6) Has it been assessed that Erskineville residents have only 0.4 hectares per thousand people?
(7) Will the RTA pass over these parks to South Sydney Council for ownership and management on behalf of residents? If not, why not?

Answer -

(1) The Authority owns two parcels of land at the intersection of Albert Street and Erskineville Road that are surplus to requirements. The land is vacant and zoned Residential 2(b).
When acquired some years ago for road purposes, the properties were occupied by residential developments. These developments were in such poor condition that it was necessary to demolish them for health and safety reasons. Following demolition, agreement was given to a request from South Sydney Council to allow the vacant land to be used as Open Space until either required for roadworks or abandonment of the road proposal.

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(2) The extent of use of the land for passive recreation has not been assessed by the Authority.
(3) Yes.
(4) The road proposal has been abandoned.
(5) This is a matter for the consideration of the Minister for Planning.
(6) Advice should be sought from the Minister for Planning.
(7) No. The Authority is negotiating with the Society of St Vincent De Paul, which is seeking to acquire the properties with the aim of constructing a community support facility for frail, aged men.
I understand that the Society proposes to develop the larger parcel of land and to contribute the other parcel under Section 94 of the Local Government Act for use by the community as Open Space.

COFFS HARBOUR WATER SUPPLY

Mr Jones asked the Minister for Planning, and Minister for Housing -

(1) Is Coffs Harbour currently facing a water shortage?
(2) Are there currently water restrictions in place in Coffs Harbour?
(3) Did Coffs Harbour's City Engineer warn Council in 1991 that the city's water supply was critical and recommend that growth be stopped until the water supply was augmented?
(4) Is Coffs Harbour City Council still allowing connections to the town water supply despite restrictions on the use of water?
(5) Did Coffs Harbour City Council recently approve a subdivision at North Bonville?
(6) If so will the current water supply be able to meet the day to day needs of residents?
(7) Did the Coffs Harbour City Council approve a development application in breach of environmental guidelines which protect koala habitat and other environmental requirements set by the Minister for Planning?
(8) Will the Government act to place a moratorium on further connections to the Coffs Harbour water supply until the water supply has been upgraded?
(9) If not, why not?
(10) Does the new Development Control Plan for North Bonville breach conditions in the Local Environment Plan and conditions set by the Minister for Planning to protect endangered and protected species?

Answer -

(1) No. Currently the Council's water storage dam is full and allowing unrestricted pumping. However, at times the capacity of the Council's current water system is placed under stress.
(2) No.
(3) and (4) These questions should be referred to the Coffs Harbour City Council which is the water supply authority for the city.
(5) Coffs Harbour City Council approved a 270 lot subdivision at North Bonville in late November 1993.
(6) This question would be more appropriately directed to the Coffs Harbour City Council which is responsible for the supply of water to individual residents in Coffs Harbour.
(7) The Department of Planning has advised me that the development application for the subdivision at North Bonville, approved by Council, is considered to be generally compatible with the development and

design guidelines contained in the "Deferred Area Study" and referred to in clause 41 of the Coffs Harbour LEP 1988. However, the Department did raise concerns with the Council regarding certain aspects of the development and associated Development Control Plan.
(8) and (9) These questions may be more appropriately addressed to the Minister for Natural Resources responsible for the Water Supply Authority Act, 1987.
(10) The Department of Planning has advised me that the Development Control Plan is generally compatible with guidelines contained in the "Deferred Area Study" for Bonville North and referred to in clause 41 of the Coffs Harbour LEP 1988. However, as indicated in Answer 7, the Department did raise some concerns with certain aspects of the plan and associated subdivision.

SOUTH SHELLHARBOUR BEACH MARINA PROPOSAL

Mr Jones asked the Minister for Planning, and Minister for Housing, representing the Minister for Agriculture and Fisheries, and Minister for Mines -

(1) What impact will the proposed boat harbour marina at South Shellharbour beach have on the fish breeding grounds of wetland number 376?
(2) What impact will the effluent from the urban runoff and the marina have on the fish stocks in the offshore soft coral and sponge reef?
(3) Will the Minister ensure that the concerns of New South Wales Fisheries are taken into account during the compilation of the EIS for the proposed marina?

Answer -

(1) New South Wales Fisheries has recommended that an Environmental Impact Statement (EIS) be undertaken to investigate the impact of the proposed Boat Harbour Marina at South Shellharbour Beach will have on fish breeding grounds.
New South Wales Fisheries' requirements for the preparation of such an EIS are contained in that Department's "Estuarine Habitat Management Guidelines" (1993), which were discussed with Shellharbour Council and Walker Corporation at a Planning Focus Meeting in April 1994. Specific requirements for the preparation of this EIS are to be formulated in consultation with New South Wales Fisheries' Habitat Biologist at Nowra.
(2) Same general answer as Question 1 - to be addressed in the EIS.
(3) Yes.

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PRIVATE TOLLWAY FINANCING

Mr Jones asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Transport, and Minister for Roads -

(1) Do Loans Council Guidelines effective from 5 July 1993 make it impossible for Roads and Traffic Authority to negotiate private financing for toll roads?
(2) Will this effectively delay the funding of the F2 Tollway until such time as a more appropriate solution to North West Sydney's transport needs is evaluated?
(3) If the F2 Castlereagh tollway will be delayed, will the Minister reconsider the proposal put forward by the Coalition of Transport Action Groups for heavy and/or light rail proposals for North West Sydney?
(4) Will the Minister also give serious consideration to the Barclay Mowlem construction proposal for a privately funded Macquarie Rail Link?

Answer -

(1) No.

(2) and (3) Not applicable.
(4) Yes.

MACQUARIE RAIL LINK

Mr Jones asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Transport, and Minister for Roads -

(1) Would the proposed Barclay Mowlem Construction Macquarie Rail Link provide the following benefits:

(a) integration with the existing rail network?
(b) double frequency of off-peak service on the main northern line from Hornsby to Epping, at 15 minute intervals rather than the current 30 minutes?
(c) improved peak period service?
(d) rail access to Macquarie University, Macquarie Shopping Centre, North Ryde industrial estate, medium density residential areas at Macquarie Park, CSIRO and Macquarie hospital at North Ryde, Lane Cove and Artarmon industrial estates?
(e) easy access to Chatswood and the lower North Shore?
(f) genuine travel time savings for both rail and road commuters to the CBD - faster trips and more frequent service for rail patrons and reduced traffic for road users?
(g) rail connection to the airport when that rail link is built?
(h) minimal environmental impact - no communities isolated by a tollroad, reduced local traffic, virtually no loss of homes and other premises, reduced air pollution and fuel consumption, less traffic noise and smell, improved rather than depressed property values, no impact on local open space and bushland?
(i) potential to extend much needed rail service to the north west sector?
(j) a north westerly extension reducing the need for such a large bus-rail interchange at Epping, planned to go with the proposed F2 tollway?
(k) relief from additional traffic congestion if the F2 is built, anticipated in areas such as West Chatswood and Lane Cove?

(2) Will the Minister give immediate consideration to the Barclay Mowlem Construction proposal?
(3) If not, why not?

Answer -

(1) (a) As proposed by Barclay Mowlem, the project would be able to be fully integrated with the CityRail network.
(b) Operational issues will be assessed as part of the evaluation process.
(c) See question 1 (b).
(d) The proposal is not firmly committed to a particular alignment.
(e) The proposal is not firmly committed to a particular alignment.
(f) Operational issues will be assessed as part of the evaluation process.
(g) The proposal is not firmly committed to a particular alignment.
(h) Environmental issues will be assessed as part of the evaluation process.
(i) It is proposed that the project would have the potential to be extended to the North West Sector.
(j) Operational issues will be assessed as part of the evaluation process.
(k) Operational issues will be assessed as part of the evaluation process.

(2) The Barclay Mowlem proposal has been referred to the Department of Transport for an evaluation of the transport planning, land use, operational, technical, economic and financing issues raised prior to making any commitment as to the future of the project.
(3) See question 2.

TERMINAL PATIENTS' RIGHTS

Mr Jones asked the Attorney General, Minister for Justice, and Vice President of the Executive Council -

(1) Are `Living Wills/Advance Directives' legal here as in the USA? If not, why not?
(2) Can terminal patients choose the time of their death?
(3) If not, why not?
(4) Can terminal patients refuse medical intervention or treatment aimed at prolonging or sustaining life?
(5) If not, why not?
(6) Are doctors permitted to give lethal doses to terminal patients if the terminal patient requests it?
(7) If not, why not?
(8) Can doctors let a patient die if that patient expresses such a wish?
(9) If not, why not?

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Answer -

(1) Unlike in some states of the United States of America, advance directives do not have a statutory basis in New South Wales. However advance directives in New South Wales play an integral role in ensuring that people with terminal illnesses have the right to discuss and make decisions about all aspects of their treatment including foregoing treatment. Health Department guidelines are contained in the document "DYING WITH DIGNITY - Interim Guidelines on Management".
At the present time advance directives are only appropriate to people with terminal illnesses. There are no plans to expand their scope beyond this category of persons. An advance directive reflects the intentions of a patient of sound mind in respect of his or her medical treatment.
(2) It is Health Department policy that a management plan should be developed for the treatment of patients with terminal illnesses. The plan - which is to be developed in consultation with the patient, the patient's family and the attending medical officer - should detail:
(a) The goals of treatment;
(b) the treatment to be used;
(c) the length of the treatment to be employed; and
(d) the circumstances under which treatment should be foregone.
Underpinning all of this is the right of a patient with a terminal illness to refuse any treatment.
(3) Not applicable.
(4) Patients have a right to discuss and make decisions about all aspects of their treatment, including foregoing treatment. Health care personnel must respect the rights of all patients to make decisions regarding their care.
(5) Not applicable.
(6) Active euthanasia, which occurs where a terminally ill patient requests that active steps (including lethal doses) be taken for the purpose of terminating his or her life, is not permitted in New South Wales.
(7) Active euthanasia is not permitted as a person who administers a lethal does to a patient with a terminal illness for the purpose of terminating their life may be liable under the Crimes Act 1900 to be charged with murder or attempted murder.
(8) In circumstances where an adult patient of sound mind with a terminal illness expresses a clear intention to forego medical treatment with full knowledge that death will result, that patient is entitled to have that choice respected.
(9) Not applicable.
Further enquires in relation to these issues should be addressed directly to the Minister for Health.

GAMBLING COUNSELLORS

Mr Jones asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing -

(1) How many full time Counsellors are employed to counsel compulsive gamblers?
(2) Does Lifeline receive approximately 2500 calls a year on gambling problems?
(3) Are sufficient Counsellors employed to cope with the problem?

Answer -

This question has already been answered and appears on paper No. 22 on 13 September 1994.

PORT BOTANY DISASTER PLAN

Mrs Kite asked the Attorney General, Minister for Justice, and Vice President of the Executive Council, representing the Minister for Police, and Minister for Emergency Services -

(1) Will the Minister inform the House whether:
  (a) there is an update of the Department of Environment Risk Assessment Study for Botany/Randwick 1985
  (b) in view of the concentration of highly explosive chemicals and dangerous gases stored at Port Botany, there is a Special Disaster Plan which would:
    (i) operate over a 24 hour period, 7 days a week;
    (ii) include the now accepted risk of aircraft ditching into Botany Bay;
    (iii) provide for a possible major spill of flammable materials from vessels in the Bay?

(2) Will the Minister make available to this House, and to the public the most recent disaster plan which provides directions on what to do in the case of any impact, explosion or emission of more than 435,000 tonnes of flammable liquids, 28,500 tonnes of liquefied flammable gases, and 21,870 tonnes of potential toxic materials?

(3) If there is such a plan, will it operate on a Local, Regional or State level and what is the disaster impact predicted on the City of Sydney and the surrounding metropolis.

(4) What action is the Government taking to reduce risks in the Botany Bay Region?

(5) Will risks be severely increased by the additional transportation of hazardous goods to the huge underground storage tanks of LPG proposed by ICI.

Answer -

(1) (a) This question is more appropriately addressed to the Minister for Planning and Minister for Housing.
  (b) An all hazards approach is used in planning in emergencies in New South Wales. There are a number of emergency plans which operate 24 hours per day, 7 days per week, covering the various consequences which may arise from the impact of an event. They include:

* State Disaster Plan (DISPLAN)
* Botany Local Disaster Plan
* Randwick Local Disaster Plan
* State Aviation Emergency Sub-Plan
* State Supplement to the National Plan to Combat Pollution of the Sea by Oil
* State Environmental Services Functional Area Supporting Plan (ENVIROPLAN)
* State Hazardous Materials Major Incident and Emergency Sub-Plan (HAZMATPLAN) and
* the Port Botany Response Plan and the St George/Sutherland Marine Disaster Plan are currently being developed, but have been issued in draft form.

(2) The above plans, except for the State Supplement to the National Plan to Combat Pollution of the Sea by Oil, are available through the State Emergency Management Committee or the respective District Emergency Management Committee. The State Supplement to the National Plan to Combat Pollution of the Sea by Oil is the responsibility of the Minister for Public Works.

(3) The emergency management arrangements provide for State, District and Local level plans. The

consequences of the impact of an event determine the level to which the various emergency plans will be activated.
(4) This is a matter for the Minister for Planning and the Minister for Housing.
(5) A Commission of Inquiry into the proposal to construct Liquefied Petroleum Gas underground storage caverns at Molineux Point, Port Botany, was held earlier this year.

MILDLY INTELLECTUALLY DISABLED STUDENTS

Mrs Kite to ask the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier -

(1) How many New South Wales Public Schools cater for children under 8 years of age who have mild intellectual disabilities (IM)?
(2) Where are they situated?
(3) How many of those schools cater for children who do not have the ability to speak but are not deaf?
(4) Which of these schools teach Auslan?

Answer -

(1) All primary schools have the capacity to cater for children with mild intellectual disability (IM). All schools have the opportunity to apply for additional support through the State Integration Program to support students with disabilities. Specific provision for these students is through the appointment of teachers under the Early School Support Program and Early Intervention classes. There are currently 115 schools which have access to these programs.
(2) The following table provides an overview of the number of schools within each of the ten regions which have access to either the Early School Support Program or have an Early Intervention class.

Region	Number
Metropolitan West	20
Metropolitan East	15
Metropolitan North	12
Metropolitan South-West	14
Riverina	5
Western	7
North Coast	9
Hunter	14
North West	8
South Coast	11
Total	115

(3) Numbers of students in this category are very small. These students are not necessarily intellectually disabled as implied by this question. Such students may also be catered for in a support class (Language) of which there are 43 across the state.
(4) None.

STATE ENVIRONMENTAL PLANNING POLICY REVIEW

Mr Jones asked the Minister for Planning, and Minister for Housing -

(1) How long has it been since the last amendment to the State Environmental Planning Policy No 14?
(2) Prior to the current period since amendment, what was the average period of review?
(3) Is the current period since amendment the longest since the gazettal of the State Environmental Planning Policy No 14 in late 1985? If so why?
(4) Was a final draft proposal to proceed with the next amendment, and an accompanying list of specific amendments, completed for the endorsement of the Manager, Natural Resources and the Director of

Planning by 14 December 1993?
(5) Has the Manager, Natural Resources or the Director of Planning endorsed this minute paper since its final drafting some 5 months ago?
(6) Did Departmental Officers say in a minute dated 14 December that "it seems misleading and likely to generate resentment to be advising landowners of amendments to the policy when no timetable can be assured"?
(7) Has the Minister advised the Department to put further amendments "on-hold" for an indefinite period?
(8) If so, has the Minister made a record of this advice?
(9) Have a significant number of wetlands not been recommended for inclusion in the policy despite the fact that the Department has judged them to meet the inclusion criteria and has indeed mapped them?
(10) Has the Minister intervened in the policy process for the inclusion of wetlands in particular instances? If so, when and why?
(11) Have wetlands not been recommended for inclusion because of standing unwritten orders from the Minister regarding the interests of government departments such as the RTA?
(12) Was the Northern Regions Manager of the Department of Planning instructed by the Deputy Director in 1992 that no new privately owned lands were to be included in the policy unless the owners of the land agreed in writing?

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(13) Was the Minister the originator of this new policy? If not, who was?
(14) Is it true that based on a calculation of areas in the Department's latest recommendations on amendment of the policy, the addition of wetlands are at least 66 times or 6,600% more likely to be indefinitely delayed than deletions? If not, what is the correct ratio?
(15) How does the Minister explain that additions are more likely to be delayed than deletions?

Answer -

(1) The last amendment was made on 11 June 1993.
(2) The average period between amendments was approximately 13 months.
(3) No.
(4) The report referred to was not a "final draft" proposal but was a working draft.
(5) No.
(6) Yes.
(7) No.
(8) Not applicable.
(9) Some possible additions to the policy are still under consideration.
(10) Yes. In the case of land owned by Lenen Developments Pty Ltd in Tweed Shire, in January 1993.
(11) No.
(12) The direction made by an Assistant Director was to vigorously engage in consultation and negotiation with affected landholders.
(13) This is not a new policy. It is consistent with the Department of Planning's policy of implementing SEPP 14 through a cooperative approach involving education and negotiation to achieve the policy's aims. Landholders have no veto over inclusion of land in SEPP 14.
(14) It is not possible to comment on these figures because their basis is impossible to discern.
(15) In order for the community and landholders affected by the policy to accept its objectives, it is important to undertake a process of consultation and education. Obviously this process takes longer with additions than with deletions. I do not intend to jeopardise the successful implementation of this policy by ignoring the concerns of those affected by it.

STATE BANK LENDING POLICY

Mr Macdonald asked the Attorney General, Minister for Justice and Vice President of the Executive Council, representing the Treasurer, and Minister for the Arts -

(1) Has the State Bank of New South Wales extended loans to Harbour Radio Pty Ltd?
(2) Has Harbour Radio Pty Ltd demonstrated an inability to repay these loans?
(3) Has the State Bank of New South Wales written down the loans in its accounts?
(4) Has the State Bank of New South Wales waived the loans to Harbour Radio?
(5) Is the total indebtedness of Harbour Radio Pty Ltd to the State Bank of New South Wales in excess of $10 million dollars?
(6) If the State Bank of New South Wales has waived the indebtedness of Harbour Radio Pty Ltd, is this a normal business procedure of the Bank?

Answer -

The Treasurer has advised:
The questions asked by Mr Macdonald relate to a commercial transaction between the Bank and one of its customers. The Government has no knowledge of this transaction.
It should be pointed out that the State Bank is a corporatised entity with a fully independent Board of Directors. The Government is not involved in the day to day running of the Bank nor in its commercial decisions and transactions with individual customers.
Under Section 7 of the State Bank (Corporatisation) Act, the Bank Board is prohibited from disclosing information on the financial affairs of an individual customer without the customer's prior consent.
Furthermore, under the common law bankers' duty of confidentiality, the Bank Board is obligated to maintain confidentiality with respect to the financial position of its customers. Such information cannot be disclosed to its shareholder, the State of New South Wales and by extension, the Parliament of New South Wales, unless compelled by Court Order or an Act of Parliament.
In view of the above, it is illegal and inappropriate for the Bank to provide the Government with information on its dealings with Harbour Radio Pty Ltd. It is a purely commercial matter between the Bank and its customer, Harbour Radio Pty Ltd.

SALE OF HAYMARKET BUILDING

Mr Manson asked the Minister for Planning, and Minister for Housing -

(1) Has the Government recently sold a building at Haymarket to the Sydney City Mission?
If so,
(2) (a) Which building was sold?
(b) What was the sale price?
(c) Did the Government obtain a valuation on the building prior to its sale?
(d) From whom was the valuation obtained?
(e) What was the valuation?

Answer -

(1) Yes.
(2) (a) 4-10 Campbell Street, Sydney (Haymarket).
(b) In recognition of the services to be gained by the community the building was sold for $3 million.
(c) Yes.
(d) The Valuer-General.
(e) $4 million.

BALLINA POLICE STATION STAFFING

Mrs Walker asked the Attorney General, Minister for Justice, and Vice President of the Executive Council,

representing the Minister for Police, and Minister for Emergency Services -

(1) Is Ballina Police Station a 24-hour police station?
(2) If so, does Ballina Police Station have their full complement of 35 police officers?
(3) How many police cars, excluding visiting highway patrol cars, do Ballina police have at their disposal?
(4) Has Ballina Police Station been understaffed or left without sufficient vehicles to be able to fulfil their policing obligations?

Answer -

(1) Yes.
(2) Ballina Police Station currently has a strength of 36 police officers.
(3) 6.
(4) No.

SHELLHARBOUR COUNCIL LAND ZONINGS

Mr Jones asked the Minister for Planning, and Minister for Housing -

(1) Did the Lake Times of 22 September 1993 indicate that Shellharbour Municipal Council has designated as Operational Land, 180 hectares of land included in the following publicly owned properties:
   (a) Part Lot 2, DP 248003 - Shellharbour Road, Shellharbour, which includes approximately half of Wetland 376 and two playing fields used by children?
   (b) Lot 2, DP 584291 - Shellharbour Road, Shellharbour, comprising Shellharbour Municipal Golf Course which is operated by Shellharbour Golf Club?
   (c) Lot 1, 624266 - Shellharbour Road, Shellharbour, much of which drains into Wetland 376, whilst another part drains into the freshwater Killalea Lagoon (Wetland 375)?
   (d) Lot 1, DP 630517 - Shellharbour Road, Shellharbour, which drains into Wetland 376?
(2) Is it appropriate to designate land such as Part Lot 2, DP 248002, and Lot 2 DP 584291, as Operational Land when they are extensively used for recreation by the people of Shellharbour Municipality?
(3) Now that Shellharbour Council has designated Part Lot 2, DP 248002 as Operational Land:
   (a) Will the Wetland within this deposited plan area continue to be protected under State Environment Planning Policy 14?
   (b) Will that part of Wetland 376 within the land owned by the National Parks Service be protected?
   (c) Does Shellharbour Municipal Council intend to excavate the whole of Wetland 376 in order to create a boat harbour for ocean going yachts? If so, will it be allowed to proceed with this project?
(4) If Shellharbour Municipal Council is permitted to destroy Wetland 376:
   (a) Will the Minister concur in approving construction of a 200 metre wide channel through South Harbour Beach?
   (b) What conditions will be applied to prevent onshore run-off destroying the offshore coral reef?
(5) If Lot 1 DP 624266 is designated Operational Land what protection will there be to prevent pollution of Killalea Lagoon?
(6) If Lot 1, DP 630517 remains community land:
   (a) Is there any objection to Council using a portion of this land for provision of inexpensive accommodation such as caravan park/cabin type facilities for use by ordinary people?
   (b) Is there any objection to Shellharbour Council and/or the National Parks Service providing facilities such as toilets, change rooms, picnic tables, barbecue facilities, shade trees etc. on the National Park land from the middle to the southern end of the beach?
   (c) Alternately could the 49 hectares of adjoining National Park land be transferred to Council so that Council can properly carry out its responsibilities to the residents of Shellharbour Municipality?
(7) If Lot 1, DP 630157 becomes Operational Land what protection will there be to prevent pollution of

Wetland 376 and the sea off South Shellharbour Beach?

Answer -

(1) Yes. But it included Lot 2, DP 248002 and not Lot 2, DP 248003.
(2) This is a matter for Shellharbour Council to consider.
(3) (a) Yes.
(b) Yes.
(c) The effect of a boat harbour proposal on the wetland will not be known until details of any such proposal have been submitted to the Council.
(4) (a) and (b) I cannot provide answers to these questions until I know full details of the proposal.
(5) The Department of Planning is negotiating with Shellharbour Council for a land exchange to add that part of Lot 1, DP 624266, in the Killalea Lagoon catchment to the State Recreation Atea. This should provide protection for both the land and the lagoon.
(6) (a), (b) and (c) Lot 1, DP 630517 has already been classified as operational.
(7) Lot 1, DP 630517 has already been classified as operational. The effect of any development proposal for this land on the wetland and the sea will have to be assessed and appropriate controls imposed.

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STAMP DUTY ON RURAL PROPERTY

Mr Egan asked the Attorney General, Minister for Justice, and Vice President of the Executive Council, representing the Treasurer, and Minister for the Arts -

(1) Is the New South Wales Farmers Federation seeking an exemption from stamp duty for the transfer of family farms from one generation to the next?
(2) What is the likely cost to revenue of the proposal?

Answer -

(1) Yes.
(2) The estimated cost to revenue of this proposal is approximately $2.5 million per annum.

CHILDREN IN CARE COURT PROCEEDINGS

Ms Burnswoods asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for the Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing -

(1) Are figures on court appearances of children in care proceedings and the results of the proceedings available for 1992-93? If not, why not?
(2) Is the Department of Juvenile Justice unable to compile these figures into releasable form because of a dispute over which Department will pay for this work to be done between the Departments of Juvenile Justice and Community Services?
(3) Does the Minister agree that statistics on Children's Court care proceedings are necessary to enable sensible planning and policy decisions to be made?
(4) Will the Minister make available immediately the funds needed to enable these important figures to be properly compiled and released? If not, why not?
(5) When will the figures for 1992-93 be publicly available?
(6) Will the Minister ensure that the figures for 1993-94 are processed and released as soon as possible after July 1994?

Answer -

The Department of Juvenile Justice records information on all court appearances of children, and the results of proceedings including appearance of children in care proceedings.
These questions should more appropriately be asked of my colleague, Hon J.P. Hannaford, MLC, Attorney General and Minister for Justice.

STATE WARD NUMBERS

Ms Burnswoods asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier, representing the Minister for Community Services, Minister for Aboriginal Affairs, and Minister for the Ageing -

(1) How many children were made wards of the State in 1992, 1993 and to date in 1994?
(2) What were the ages of the children made wards of the State in each of those years?
(3) How many children were released from wardship in 1992, 1993 and to date in 1994?
(4) How many of the children released from wardship were aged:
    (a) 16
    (b) 17
    (c) 18?

Answer -

(1) Children admitted to Wardship by the Children's Court (Section 72, Children (Care and Protection) Act), through Section 34 of the Adoption of Children Act, or by transfer from another State:

1992 - 483
1993 - 494
To 16 June 1994 - 240

(2)

	0-1 Years	2-10 Years	11-18 Years	TOTAL
1992	147	187	149	483
1993	144	194	156	494
To 16 June 1994	50	110	80	240

(3) and (4)

	Total	16 Years	17 Years	18 Years
1992	434	39	55	96
1993	455	43	30	122
To 16 June 1994	233	24	45	39

ABORIGINAL AND TORRES STRAIT ISLANDER PRISONERS

Dr Burgmann asked the Attorney General, Minister for Justice, and Vice President of the Executive Council -

(1) (a) How many Aboriginal and Torres Strait Islander prisoners from interstate are incarcerated in NSW prisons?

(b) Where are they from?

(2) How many interstate Aboriginal and Torres Strait Islander prisoners have requested transfers to their home areas to facilitate family visits?

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(a) How many of these prisoners have been refused transfers to their home areas?

(b) What are the reasons for refusal of transfers to home areas?

(c) Are the prisoners individually informed of the reasons for refusal?

(d) Are there any avenues of appeal for prisoners refused home area transfers?

(e) If not, is this in accordance with Recommendation 168 of the Royal Commission into Aboriginal Deaths in Custody?

(3) Are interstate Aboriginal and Torres Strait Islander prisoners' families permitted to apply for financial assistance for travel and accommodation, in accordance with Recommendation 169 of the Royal Commission into Aboriginal Deaths in Custody?

(a) If so, how many applications have been made?

(b) How many of these applications have been successful?

(c) How many applications have been rejected and on what grounds?

Answer -

(1) (a) 62 prisoners.

(b)

Queensland	32
Victoria	12
Western Australia	7
Australian Capital Territory	5
South Australia	2
Tasmania	2
Northern Territory	2

(2) 4 prisoners.

(a) 1 prisoner, request declined by the Minister of the State to which the prisoner applied to be transferred.

(b) Insufficient welfare grounds eg lack of family support. Insufficient time, a very short term of imprisonment remaining to be served.

(c) When the Minister articulates his reasons for declining a decision for interstate transfer, this information is conveyed to the prison when the prisoner is advised of the decision.

(d) Prisoners can re-apply in 12 months time.

(e) In accordance with Recommendation 168, it is the policy of the Department of Corrective Services to locate Aboriginal and Torres Strait Islander prisoners as close as possible to the place of residence of their families.

(3) Travel assistance is available to members of the immediate family who are resident in New South Wales.

(a) The Department of Corrective Services is not aware of any applications for assistance with interstate travel from Aboriginal or Torres Strait Island prisoner families.

(b) Not applicable.

(c) Not applicable.

GLADESVILLE ELECTORATE ETHNIC SCHOOLS

Ms Burnswoods asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier -

(1) How many ethnic schools operate in the Gladesville electorate?
(2) Where are they located?
(3) What languages do they teach?
(4) What funding was allocated to each of these schools in:
    (a) 1990?
    (b) 1991?
    (c) 1992?
    (d) 1993?
    (e) 1994?
(5) What funding will each receive in 1995?
(6) In relation to these schools, for which specific areas of funding does the NSW Government have responsibility?

Answer -

(1) Six community languages schools (formerly known as ethnic schools) operate in the Gladesville electorate.
(2) Gladesville Primary School, Macquarie University, Peter Board High School and Ryde Primary School.
(3) Italian, Polish, Armenian, Chinese, Croatian and Persian.
(4) (a) to (d) Funding totalling $3,884 wasdistributed to community languages schools in the Gladesville electorate in 1990. In 1991,the figure was $1,700, in 1992 it was $11,253, in 1993 it was $11,564 and in 1994 it was $14,861.
(5) Community languages schools are funded on a calendar year basis, funds are disbursed in June each year, therefore funding for 1995 is not known at this date.
(6) NSW Government funding assists with the maintenance and development of languages other than English in community languages schools. Specifically, it contributes to per capita funding allocation, materials development, professional development and curriculum support. The program is managed as an integrated program utilising both Commonwealth and State funding.

BONALBO CENTRAL SCHOOL BUNDJALUNG LANGUAGE COURSE

Mr Jones asked the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier -

(1) Do Eric and Una Walker teach the Bundjalung language in schools throughout the New South Wales north coast?

(2) Are they provided with resources such as a blackboard and a travel allowance?
(3) Have they made requests for any teaching aids? If so, what were they?
(4) Have any such requests been refused? If so, why?
(5) Will the Minister ensure that Eric and Una Walker receive sufficient resources to allow this important language to be taught in north coast schools?

Answer -

(1) I understand that Eric and Una Walker have taught a formal introductory Bundjalung language

course at Bonalbo Central School. I am not aware of any other formal courses involving Mr and Mrs Walker.

(2) It has been reported to me that, at Bonalbo Central School, they have been provided with resources including a chalkboard. They do not receive a travelling allowance but each receive a payment at a tutor's rate of $30.00 per hour.

(3) As part of the introductory program at Bonalbo Central School, Mr and Mrs Walker have requested chalkboard, chalk, paper, pens and pencils. These resources were supplied.

(4) No requests for resources at Bonalbo Central School have been denied.

(5) At this stage, the teaching of the Bundjalung language at Bonalbo Central School is an introductory course. The decision to introduce the Bundjalung language into other specific schools rests with individual principals who will make the decision based on the needs of students and the school community. Mr and Mrs Walker can negotiate the supply of resources with individual principals.